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A

POLITICAL MANUAL FOR 1869,

INCLUDING A CLASSIFIED SUMMARY OF THE IMPORTANT

EXECUTIVE, LEGISLATIVE, JUDICIAL, POLITICO-MILITARY

AND

GENERAL FACTS OF THE PERIOD,

From July 15, 1868. to July 15, 1869.

By EDWARD McPHERSON, LL.D.,
CLERK OF THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES.

WASHINGTON CITY:
PHILP & SOLOMONS.
1869.

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PREFACE.

This volume contains the same class of facts found in the Manual for 1866, 1867, and 1868. The record is continued from the date of the close of the Manual for 1868, to the present time.

The votes in Congress during the struggle which resulted in the passage of the Suffrage or XVth Amendment of the Constitution of the United States, will disclose the contrariety of opinion which prevailed upon this point, and the mode in which an adjustment was reached; while the various votes upon it in the State Legislatures will show the present state of the question of Ratification. The additional legislation on Reconstruction, with the Executive and Military action under it; the conflict on the Tenure-of-Office Act and the Public Credit Act; the votes upon the mode of payment of United States Bonds, Female Suffrage, Minority Representation, Counting the Electoral Votes, &c.; the Message of the late President, and the Condemnatory Votes in Congress upon it; the Inaugural Address, Message, and Proclamations of President GRANT; the Decisions of the Supreme Court of the United States in the Texas and McCardle Cases, on the "Legal Tender" Act, and the Taxing Power of the States as to travelers passing through them, and as to United States certificates and notes; the Opinions of Judges Chase and Underwood in the Cæsar Griffin Case; the Georgia decisions as to the eligibility of colored persons to office, and intermarriage of the races; the Opinion of Attorney General Hoar on Military Commissions; and the General Political Miscellany, including the usual lists of Cabinets and Congresses, combine to constitute a varied and interesting fund of information quite worthy the attention of every student of American history.

EDWARD McPHERSON.

WASHINGTON CITY, *July* 15, 1869.

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PART IV.

POLITICAL MANUAL FOR 1869.

XXXVII.

MEMBERS OF THE CABINET OF PRESIDENT JOHNSON,

AND OF THE FORTIETH CONGRESS, THIRD SESSION.

PRESIDENT JOHNSON'S CABINET.

Secretary of State—WILLIAM H. SEWARD, of New York.
Secretary of the Treasury—HUGH MCCULLOCH, of Indiana.
Secretary of War—JOHN M. SCHOFIELD, of New York.
Secretary of the Navy—GIDEON WELLES, of Connecticut.
Postmaster General—ALEXANDER W. RANDALL, of Wisconsin.
Attorney General—WILLIAM M. EVARTS, of New York.

MEMBERS OF THE FORTIETH CONGRESS.

Third Session, December 7, 1868—March 3, 1869.

Senate.

BENJAMIN F. WADE, of Ohio, *President of the Senate, and Acting Vice President.*
George C Gorham, of California, *Secretary.*
Maine—Lot M. Morrill, William Pitt Fessenden.
New Hampshire—Aaron H. Cragin, James W. Patterson.
Vermont—George F. Edmunds, Justin S. Morrill.
Massachusetts—Charles Sumner, Henry Wilson.
Rhode Island—William Sprague, Henry B. Anthony.
Connecticut—James Dixon, Orris S. Ferry.
New York—Edwin D. Morgan, Roscoe Conkling.
New Jersey—Frederick T. Frelinghuysen, Alexander G. Cattell.
Pennsylvania—Charles R. Buckalew, Simon Cameron.
Delaware—James A. Bayard, Willard Saulsbury.
Maryland—William Pinckney Whyte, George Vickers.
North Carolina—John C. Abbott, John Pool.
South Carolina—Thomas J. Robertson, Frederick A. Sawyer.
Alabama—Willard Warner, George E. Spencer.
Louisiana—John S. Harris, William P. Kellogg.
Ohio—Benjamin F. Wade, John Sherman.
Kentucky—Thomas C. McCreery, Garrett Davis.
Tennessee—David T. Patterson, Joseph S. Fowler.
Indiana—Thomas A. Hendricks, Oliver P. Morton.
Illinois—Richard Yates, Lyman Trumbull.
Missouri—John B. Henderson, Charles D. Drake.
Arkansas—Alexander McDonald, Benjamin F. Rice.
Michigan—Zachariah Chandler, Jacob M. Howard.
Florida—Adonijah S. Welch, Thomas W. Osborn.
Iowa—James W. Grimes, James Harlan.
Wisconsin—James R. Doolittle, Timothy O. Howe.
California—John Conness, Cornelius Cole.
Minnesota—Alexander Ramsey, Dan'l S. Norton.
Oregon—George H. Williams, Henry W. Corbett.
Kansas—Edmund G. Ross, Samuel C. Pomeroy.
West Virginia—Peter G. Van Winkle, Waitman T. Willey.
Nevada—William M. Stewart, James W. Nye.
Nebraska—Thomas W. Tipton, John M. Thayer.

House of Representatives.

SCHUYLER COLFAX, of Indiana, *Speaker.*
Edward McPherson, of Pennsylvania, *Clerk.*
Maine—John Lynch, Sidney Perham, James G. Blaine, John A. Peters, Frederick A. Pike.
New Hampshire—Jacob H. Ela, Aaron F. Stevens, Jacob Benton.
Vermont—Frederick E. Woodbridge, Luke P. Poland, Worthington C. Smith.
Massachusetts—Thomas D. Eliot, Oakes Ames, Ginery Twichell, Samuel Hooper, Benjamin F. Butler, Nathaniel P. Banks, George S. Boutwell, John D. Baldwin, William B. Washburn, Henry L. Dawes.
Rhode Island—Thomas A. Jenckes, Nathan F. Dixon.
Connecticut—Richard D. Hubbard, Julius Hotchkiss, Henry H. Starkweather, William H. Barnum.
New York—Stephen Taber, Demas Barnes, William E. Robinson, John Fox, John Morrissey, Thomas E. Stewart, John W. Chanler, James Brooks, Fernando Wood, William H. Robertson, Charles H. Van Wyck, John H. Ketcham, Thomas Cornell, John V. L. Pruyn, John A. Griswold, Orange Ferriss, Calvin T. Hulburd, James M. Marvin, William C. Fields, Addison H. Laflin, Alexander H. Bailey, John C. Churchill, Dennis McCarthy, Theodore M. Pomeroy, William H. Kelsey, William S. Lincoln, Hamilton Ward, Lewis Selye, Burt Van Horn, James M. Humphrey, Henry Van Aernam.

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New Jersey—William Moore, Charles Haight, Charles Sitgreaves, John Hill, George A. Halsey.
Pennsylvania—Samuel J. Randall, Charles O'Neill, Leonard Myers, William D. Kelley, Caleb N. Taylor, Benjamin M. Boyer, John M. Broomall, J. Lawrence Getz, O. J. Dickey,* Henry L. Cake, Daniel M. Van Auken, George W. Woodward, Ulysses Mercur, George F. Miller, Adam J. Glossbrenner, William H. Koontz, Daniel J. Morrell, Stephen F. Wilson, Glenni W. Scofield, S. Newton Pettis,† John Covode, James K. Moorhead, Thomas Williams, George V. Lawrence.
Delaware—John A. Nicholson.
Maryland—Hiram McCullough, Stevenson Archer, Charles E. Phelps, Francis Thomas, Frederick Stone.
North Carolina—John R. French, David Heaton, Oliver H. Dockery, John T. Deweese, Israel G. Lash, Nathaniel Boyden, Alexander H. Jones.
South Carolina—B. F. Whittemore, C. C. Bowen, Simeon Corley, James H. Goss.
Georgia—J. W. Clift, Nelson Tift, W. P. Edwards, Samuel F. Gove, C. H. Prince, (vacancy,) P. M. B. Young.
Alabama—Francis W. Kellogg, Charles W. Buckley, Benjamin W. Norris, Charles W. Pierce, John B. Callis, Thomas Haughey.
Louisiana—J. Hale Sypher, (vacancy,) Joseph P. Newsham, Michel Vidal, W. Jasper Blackburn.
Ohio—Benjamin Eggleston, Samuel F. Cary, Robert C. Schenck, William Lawrence, William Mungen, Reader W. Clarke, Samuel Shellabarger, John Beatty, Ralph P. Buckland, James M. Ashley, John T. Wilson, Philadelph Van Trump, Columbus Delano, Martin Welker, Tobias A. Plants, John A. Bingham, Ephraim R. Eckley, Rufus P. Spalding, James A. Garfield.
Kentucky—Lawrence S. Trimble, (vacancy,) J. S. Golladay, J. Proctor Knott, Asa P. Grover, Thomas L. Jones, James B. Beck, George M. Adams, Samuel McKee.
Tennessee—Roderick R. Butler, Horace Maynard, William B. Stokes, James Mullins. John Trimble, Samuel M. Arnell, Isaac R. Hawkins, David A. Nunn.
Indiana—William E. Niblack, Michael C. Kerr, Morton C. Hunter, William S. Holman, George W. Julian, John Coburn, Henry D. Washburn, Godlove S. Orth, Schuyler Colfax, William Williams, John P. C. Shanks.
Illinois—Norman B. Judd, John F. Farnsworth, Ellihu B. Washburne, Abner C. Harding, Ebon C. Ingersoll, Burton C. Cook, Henry P. H. Bromwell, Shelby M. Cullom, Lewis W. Ross, Albert G. Burr, Samuel S. Marshall, Jehu Baker, Green B. Raum, John A. Logan.
Missouri—William A. Pile, Carman A. Newcomb, James R. McCormick, Joseph J. Gravely, John H. Stover,* Robert T. Van Horn, Benjamin F. Loan, John F. Benjamin, George W. Anderson.
Arkansas—Logan H. Roots, James T. Elliott, Thomas Boles.
Michigan—Fernando C. Beaman, Charles Upson, Austin Blair, Thomas W. Ferry, Rowland E. Trowbridge, John F. Driggs.
Florida—Charles M. Hamilton.
Iowa—James F. Wilson, Hiram Price, William B. Allison, William Loughridge, Grenville M. Dodge, Asahel W. Hubbard.
Wisconsin—Halbert E. Paine, Benjamin F. Hopkins, Amasa Cobb, Charles A. Eldridge, Philetus Sawyer, Cadwalader C. Washburn.
California—Samuel B. Axtell, William Higby, James A. Johnson.
Minnesota—William Windom, Ignatius Donnelly.
Oregon—Rufus Mallory.
Kansas—Sidney Clarke.
West Virginia—Chester D. Hubbard, Bethuel M. Kitchen, Daniel Polsley.
Nevada—Delos R. Ashley.
Nebraska—John Taffe.

* In place of Thaddeus Stevens, deceased.
† In place of Darwin A. Finney, deceased.
* In place of Joseph W. McClurg, resigned.

XXXVIII.

PRESIDENT JOHNSON'S LAST ANNUAL MESSAGE,

DECEMBER 7, 1868.

The following extracts relate to reconstruction and other controverted subjects:

Fellow-Citizens of the Senate and House of Representatives:

Upon the reassembling of Congress, it again becomes my duty to call your attention to the state of the Union, and to its continued disorganized condition under the various laws which have been passed upon the subject of reconstruction.

It may be safely assumed, as an axiom in the government of States, that the greatest wrongs inflicted upon a people are caused by unjust and arbitrary legislation, or by the unrelenting decrees of despotic rulers, and that

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the timely revocation of injurious and oppressive measures is the greatest good that can be conferred upon a nation. The legislator or ruler who has the wisdom and magnanimity to retrace his steps, when convinced of error, will sooner or later be rewarded with the respect and gratitude of an intelligent and patriotic people.

Our own history, although embracing a period less than a century, affords abundant proof that most, if not all, of our domestic troubles are directly traceable to violations of the organic law and excessive legislation. The most striking illustrations of this fact are furnished by the enactments of the past three years upon the question of reconstruction. After a fair trial they have substantially failed and proved pernicious in their results, and there seems to be no good reason why they should remain longer upon the statute-book. States to which the Constitution guaranties a republican form of government have been reduced to military dependencies, in each of which the people have been made subject to the arbitrary will of the commanding general. Although the Constitution requires that each State shall be represented in Congress, Virginia, Mississippi, and Texas are yet excluded from the two Houses, and, contrary to the express provisions of that instrument, were denied participation in the recent election for a President and Vice President of the United States. The attempt to place the white population under the domination of persons of color in the South has impaired, if not destroyed, the kindly relations that had previously existed between them; and mutual distrust has engendered a feeling of animosity which, leading in some instances to collision and bloodshed, has prevented that co-operation between the two races so essential to the success of industrial enterprises in the Southern States. Nor have the inhabitants of those States alone suffered from the disturbed condition of affairs growing out of these congressional enactments. The entire Union has been agitated by grave apprehensions of troubles which might again involve the peace of the nation; its interests have been injuriously affected by the derangement of business and labor, and the consequent want of prosperity throughout that portion of the country.

The Federal Constitution—the *magna charta* of American rights, under whose wise and salutary provisions we have successfully conducted all our domestic and foreign affairs, sustained ourselves in peace and in war, and become a great nation among the Powers of the earth—must assuredly be now adequate to the settlement of questions growing out of the civil war waged alone for its vindication. This great fact is made most manifest by the condition of the country when Congress assembled in the month of December, 1865. Civil strife had ceased; the spirit of rebellion had spent its entire force; in the Southern States the people had warmed into national life, and throughout the whole country a healthy reaction in public sentiment had taken place. By the application of the simple yet effective provisions of the Constitution the executive department, with the voluntary aid of the States, had brought the work of restoration as near completion as was within the scope of its authority, and the nation was encouraged by the prospect of an early and satisfactory adjustment of all its difficulties. Congress, however, intervened, and, refusing to perfect the work so nearly consummated, declined to admit members from the unrepresented States, adopted a series of measures which arrested the progress of restoration, frustrated all that had been so successfully accomplished, and after three years of agitation and strife has left the country further from the attainment of union and fraternal feeling than at the inception of the congressional plan of reconstruction. It needs no argument to show that legislation which has produced such baneful consequences should be abrogated, or else made to conform to the genuine principles of republican government.

Under the influence of party passion and sectional prejudice, other acts have been passed not warranted by the Constitution. Congress has already been made familiar with my views respecting the "tenure-of-office bill." Experience has proved that its repeal is demanded by the best interests of the country, and that while it remains in force the President cannot enjoin that rigid accountability of public officers so essential to an honest and efficient execution of the laws. Its revocation would enable the executive department to exercise the power of appointment and removal in accordance with the original design of the Federal Constitution.

The act of March 2, 1867, making appropriations for the support of the army for the year ending June 30, 1868, and for other purposes, contains provisions which interfere with the President's constitutional functions as Commander-in-Chief of the Army, and deny to States of the Union the right to protect themselves by means of their own militia. These provisions should be at once annulled; for while the first might, in times of great emergency, seriously embarrass the Executive in efforts to employ and direct the common strength of the nation for its protection and preservation, the other is contrary to the express declaration of the Constitution, that, "a well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed."

It is believed that the repeal of all such laws would be accepted by the American people as at least a partial return to the fundamental principles of the Government, and an indication that hereafter the Constitution is to be made the nation's safe and unerring guide. They can be productive of no permanent benefit to the country, and should not be permitted to stand as so many monuments of the deficient wisdom which has characterized our recent legislation.

The condition of our finances demands the early and earnest consideration of Congress. Compared with the growth of our population, the public expenditures have reached an amount unprecedented in our history.

The population of the United States in 1790 was nearly four millions of people. Increasing each decade about thirty three per cent., it reached in 1860 thirty one millions—an increase of seven hundred per cent. on the population in

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1790. In 1869 it is estimated that it will reach thirty-eight millions, or an increase of eight hundred and sixty-eight per cent. in seventy-nine years.

The annual expenditures of the Federal Government in 1791 were $4,200,000; in 1820, $18,200,000; in 1850, $41,000,000; in 1860, $63,000,000; in 1865, nearly $1,300,000,000; and in 1869 it is estimated by the Secretary of the Treasury, in his last annual report, that they will be $372,000,000.

By comparing the public disbursements of 1869, as estimated, with those of 1791, it will be seen that the increase of expenditure since the beginning of the Government has been eight thousand six hundred and eighteen per cent., while the increase of the population for the same period was only eighteen hundred and sixty-eight per cent. Again: the expenses of the Government in 1860, the year of peace immediately preceding the war, were only $63,000,000; while in 1869, the year of peace three years after the war, it is estimated they will be $372,000,000—an increase of four hundred and eighty-nine per cent., while the increase of population was only twenty-one per cent. for the same period.

These statistics further show, that in 1791 the annual national expenses, compared with the population, were little more than $1 *per capita*, and in 1860 but $2 *per capita;* while in 1869 they will reach the extravagant sum of $9 78 *per capita.*

It will be observed that all of these statements refer to and exhibit the disbursements of peace periods. It may, therefore, be of interest to compare the expenditures of the three war periods—the war with Great Britain, the Mexican war, and the war of the rebellion.

In 1814 the annual expenses incident to the war of 1812 reached their highest amount—about thirty-one millions; while our population slightly exceeded eight millions, showing an expenditure of only $3 80 *per capita.* In 1847 the expenditures growing out of the war with Mexico reached $55,000,000, and the population about twenty-one millions, giving only $2 60 *per capita* for the war expenses of that year. In 1865 the expenditures called for by the rebellion reached the vast amount of $1,290,000,000, which, compared with a population of thirty-four millions, gives $38 20 *per capita.*

From the 4th day of March, 1789, to the 30th of June, 1861, the entire expenditures of the Government were $1,700.000,000. During that period we were engaged in wars with Great Britain and Mexico, and were involved in hostilities with powerful Indian tribes; Louisiana was purchased from France at a cost of $15,000,000; Florida was ceded to us by Spain for $5,000,000; California was acquired from Mexico for $15,000,000; and the Territory of New Mexico was obtained from Texas for the sum of $10,000,000. Early in 1861 the war of the rebellion commenced; and from the 1st of July of that year to the 30th of June, 1865, the public expenditures reached the enormous aggregate of $3,300,000,000. Three years of peace have intervened, and during that time the disbursements of the Government have successively been $520,000,000, $346,000,000, and $393,000,000. Adding to these amounts $372,000,000, estimated as necessary for the fiscal year ending the 30th of June, 1869, we obtain a total expenditure of $1,600,000,000 during the four years immediately succeeding the war, or nearly as much as was expended during the seventy-two years that preceded the rebellion, and embraced the extraordinary expenditures already named.

These startling facts clearly illustrate the necessity of retrenchment in all branches of the public service. Abuses which were tolerated during the war for the preservation of the nation will not be endured by the people, now that profound peace prevails. The receipts from internal revenues and customs have during the past three years gradually diminished, and the continuance of useless and extravagant expenditures will involve us in national bankruptcy, or else make inevitable an increase of taxes, already too onerous, and in many respects obnoxious on account of their inquisitorial character. One hundred millions annually are expended for the military force, a large portion of which is employed in the execution of laws both unnecessary and unconstitutional; $150,000,000 are required each year to pay the interest on the public debt; an army of tax-gatherers impoverishes the nation; and public agents, placed by Congress beyond the control of the Executive, divert from their legitimate purposes large sums of money which they collect from the people in the name of the Government. Judicious legislation and prudent economy can alone remedy defects and avert evils which, if suffered to exist, cannot fail to diminish confidence in the public councils, and weaken the attachment and respect of the people toward their political institutions. Without proper care the small balance which it is estimated will remain in the Treasury at the close of the present fiscal year will not be realized, and additional millions be added to a debt which is now enumerated by billions.

It is shown by the able and comprehensive report of the Secretary of the Treasury that the receipts for the fiscal year ending June 30 1868, were $405,638,083, and that the expenditures for the same period were $377,340,284. leaving in the Treasury a surplus of $28,297,798. It is estimated that the receipts during the present fiscal year ending June 30, 1869, will be $341,392,868, and the expenditures $336,152,470, showing a small balance of $5,240,398 in favor of the Government. For the fiscal year ending June 30, 1870, it is estimated that the receipts will amount to $327,000,000, and the expenditures to $303,000,000, leaving an estimated surplus of $24,000,000.

It becomes proper, in this connection, to make a brief reference to our public indebtedness, which has accumulated with such alarming rapidity and assumed such colossal proportions.

In 1789, when the Government commenced operations under the Federal Constitution, it was burdened with an indebtedness of $75,000,000 created during the war of the Revolution. This amount had been reduced to $45,000,000 when, in 1812, war was declared against Great Britain. The three years' struggle that followed largely increased the national obligations, and in 1816 they had attained the sum of $127,000,000. Wise

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and economical legislation, however, enabled the Government to pay the entire amount within a period of twenty years, and the extinguishment of the national debt filled the land with rejoicing, and was one of the great events of President Jackson's administration. After its redemption a large fund remained in the Treasury, which was deposited for safe-keeping with the several States, on condition that it should be returned when required by the public wants. In 1849—the year after the termination of an expensive war with Mexico—we found ourselves involved in a debt of $64,000,000; and this was the amount owed by the Government in 1860, just prior to the outbreak of the rebellion. In the spring of 1861 our civil war commenced. Each year of its continuance made an enormous addition to the debt; and when, in the spring of 1865, the nation successfully emerged from the conflict, the obligations of the Government had reached the immense sum of $2.873,992.-909. The Secretary of the Treasury shows that on the 1st day of November, 1867, this amount had been reduced to $2,491,504,450; but at the same time his report exhibits an increase during the past year of $35,625,102; for the debt on the 1st day of November last is stated to have been $2,527,129,552. It is estimated by the Secretary that the returns for the past month will add to our liabilities the further sum of $11,000,000—making a total increase during thirteen months of $46.500,000.

In my message to Congress of December 4, 1865, it was suggested that a policy should be devised, which, without being oppressive to the people, would at once begin to effect a reduction of the debt, and if persisted in discharge it fully within a definite number of years. The Secretary of the Treasury forcibly recommends legislation of this character, and justly urges that the longer it is deferred the more difficult must become its accomplishment. We should follow the wise precedents established in 1789 and 1816, and without further delay make provision for the payment of our obligations at as early a period as may be practicable The fruits of their labor should be enjoyed by our citizens, rather than used to build up and sustain moneyed monopolies in our own and other lands. Our foreign debt is already computed by the Secretary of the Treasury at $850,000,000; citizens of foreign countries receive interest upon a large portion of our securities, and American tax-payers are made to contribute large sums for their support. The idea that such a debt is to become permanent should be at all times discarded, as involving taxation too heavy to be borne and payment once in every sixteen years at the present rate of interest of an amount equal to the original sum. This vast debt, if permitted to become permanent and increasing, must eventually be gathered into the hands of a few, and enable them to exert a dangerous and controlling power in the affairs of the Government. The borrowers would become servants to the lenders—the lenders the masters of the people. We now pride ourselves upon having given freedom to four millions of the colored race; it will then be our shame that forty million people, by their own toleration of usurpation and profligacy, have suffered themselves to become enslaved, and merely exchanged slave-owners for new task-masters in the shape of bond-holders and tax-gatherers. Besides, permanent debts pertain to monarchical governments, and tending to monopolies, perpetuities, and class legislation, are totally irreconcilable with free institutions. Introduced into our republican system, they would gradually but surely sap its foundations, eventually subvert our governmental fabric, and erect upon its ruins a moneyed aristocracy. It is our sacred duty to transmit unimpaired to our posterity the blessings of liberty which were bequeathed to us by the founders of the Republic, and by our example teach those who are to follow us carefully to avoid the dangers which threaten a free and independent people.

Various plans have been proposed for the payment of the public debt. However they may have varied as to the time and mode in which it should be redeemed, there seems to be a general concurrence as to the propriety and justness of a reduction in the present rate of interest. The Secretary of the Treasury, in his report, recommends five per cent.; Congress, in a bill passed prior to adjournment, on the 27th of July last, agreed upon four and four and a half per cent.; while by many three per cent. has been held to be an amply sufficient return for the investment. The general impression as to the exorbitancy of the existing rate of interest has led to an inquiry in the public mind respecting the consideration which the Government has actually received for its bonds, and the conclusion is becoming prevalent that the amount which it obtained was in real money three or four hundred per cent. less than the obligations which it issued in return. It cannot be denied that we are paying an extravagant percentage for the use of the money borrowed, which was paper currency, greatly depreciated below the value of coin. This fact is made apparent, when we consider that bondholders receive from the Treasury, upon each dollar they own in Government securities, six per cent. in gold, which is nearly or quite equal to nine per cent. in currency; that the bonds are then converted into capital for the national banks, upon which those institutions issue their circulation, bearing six per cent. interest; and that they are exempt from taxation by the Government and the States, and thereby enhanced two per cent. in the hands of the holders. We have thus an aggregate of seventeen per cent. which may be received upon each dollar by the owners of Government securities.

A system that produces such results is justly regarded as favoring a few at the expense of the many, and has led to the further inquiry, whether our bondholders, in view of the large profits which they have enjoyed, would themselves be averse to a settlement of our indebtedness upon a plan which would yield them a fair remuneration. and at the same time be just to the tax-payers of the nation. Our national credit should be sacredly observed; but in making provision for our creditors we should not forget what is due to the masses of the people. It may be assumed that the holders of our securities have already received upon their bonds a larger amount than their original investment,

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measured by a gold standard. Upon this statement of facts it would seem but just and equitable that the six per cent. interest now paid by the Government should be applied to the reduction of the principal in semi-annual installments, which in sixteen years and eight months would liquidate the entire national debt. Six per cent. in gold would at present rates be equal to nine per cent. in currency, and equivalent to the payment of the debt one and a half time in a fraction less than seventeen years. This, in connection with all the other advantages derived from their investment, would afford to the public creditors a fair and liberal compensation for the use of their capital, and with this they should be satisfied. The lessons of the past admonish the lender that it is not well to be over anxious in exacting from the borrower rigid compliance with the letter of the bond.*

If provision be made for the payment of the indebtedness of the Government in the manner suggested, our nation will rapidly recover its wonted prosperity. Its interests require that some measure should be taken to release the large amount of capital invested in the securities of the Government. It is not now merely unproductive, but in taxation annually consumes $150,000,000, which would otherwise be used by our enterprising people in adding to the wealth of the nation. Our commerce, which at one time successfully rivaled that of the great maritime Powers, has rapidly diminished, and our industrial interests are in a depressed and languishing condition. The development of our inexhaustible resources is checked, and the fertile fields of the South are becoming waste for want of means to till them. With the release of capital, new life would be infused into the paralyzed energies of our people, and activity and vigor imparted to every branch of industry. Our people need encouragement in their efforts to recover from the effects of the rebellion and of injudicious legislation; and it should be the aim of the Government to stimulate them by the prospect of an early release from the burdens which impede their prosperity. If we cannot take the burdens from their shoulders, we should at least manifest a willingness to help to bear them.

In referring to the condition of the circulating medium, I shall merely reiterate, substantially, that portion of my last annual message which relates to that subject.

The proportion which the currency of any country should bear to the whole value of the annual produce circulated by its means is a question upon which political economists have not agreed. Nor can it be controlled by legislation, but must be left to the irrevocable laws which everywhere regulate commerce and trade. The circulating medium will ever irresistibly flow to those points where it is in greatest demand. The law of demand and supply is as unerring as that which regulates the tides of the ocean; and indeed currency, like the tides, has its ebbs and flows throughout the commercial world.

At the beginning of the rebellion the bank-note circulation of the country amounted to not much more than $200,000,000; now the circulation of national bank notes and those known as "legal-tenders" is nearly $700,000,000 While it is urged by some that this amount should be increased, others contend that a decided reduction is absolutely essential to the best interests of the country. In view of these diverse opinions, it may be well to ascertain the real value of our paper issues, when compared with a metallic or convertible currency. For this purpose let us inquire how much gold and silver could be purchased by the $700,000,000 of paper money now in circulation. Probably not more than half the amount of the latter, showing that when our paper currency is compared with gold and silver its commercial value is compressed into $350,000,000. This striking fact makes it the obvious duty of the Government, as early as may be consistent with the principles of sound political economy, to take such measures as will enable the holder of its notes and those of the national banks to convert them, without loss, into specie or its equivalent. A reduction of our paper-circulating medium need not necessarily follow. This, however, would depend upon the law of demand and supply; though it should be borne in mind that by making legal-tender and bank notes convertible into coin or its equivalent, their present specie value in the hands of their holders would be enhanced one hundred per cent.

Legislation for the accomplishment of a result so desirable is demanded by the highest public considerations. The Constitution contemplates that the circulating medium of the country shall be uniform in quality and value. At the time of the formation of that instrument the country had just emerged from the war of the Revolution, and was suffering from the effects of a redundant and worthless paper currency. The sages of that period were anxious to protect their posterity from the evils which they themselves had experienced. Hence, in providing a circulating medium, they conferred upon Congress the power to coin money and regulate the value thereof, at the same time prohibiting the States from making anything but gold and silver a tender in payment of debts.

The anomalous condition of our currency is in striking contrast with that which was originally designed. Our circulation now embraces, first, notes of the national banks, which are made receivable for all dues to the Government, excluding imposts, and by all its creditors, excepting in payment of interest upon its bonds and the securities themselves; second, legal-tender notes issued by the United States, and which the law requires shall be received as well in payment of all debts between citizens as of all Government dues, excepting imposts; and, third, gold and silver coin. By the operation of our present system of finance, however, the metallic currency, when collected, is reserved only for one class of Government creditors, who, holding its bonds, semi-annually receive their notes in coin from the national Treasury. There is no reason which will be accepted as satisfactory by the people why those who defend us on the land and protect us on the sea; the pensioner upon the gratitude of the nation, bearing the scars and wounds received while

* See resolutions of Senate and House of Representatives thereon, pp. 391.

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in its service; the public servants in the various Departments of the Government; the farmer who supplies the soldiers of the army and the sailors of the navy; the artisan who toils in the nation's workshops, or the mechanics and laborers who build its edifices and construct its forts and vessels of war, should, in payment of their just and hard earned dues, receive depreciated paper, while another class of their countrymen, no more deserving, are paid in coin of gold and silver. Equal and exact justice requires that all the creditors of the Government should be paid in a currency possessing a uniform value. This can only be accomplished by the restoration of the currency to the standard established by the Constitution; and by this means we would remove a discrimination which may, if it has not already done so, create a prejudice that may become deep-rooted and wide-spread, and imperil the national credit.

The feasibility of making our currency correspond with the constitutional standard may be seen by reference to a few facts derived from our commercial statistics.

The aggregate product of precious metals in the United States from 1849 to 1867 amounted to $1,174,000,000, while for the same period the net exports of specie were $741,000,000. This shows an excess of product over net exports of $433,000,000. There are in the Treasury $103,407,985 in coin, in circulation in the States on the Pacific coast about $40,000,000, and a few millions in the national and other banks—in all less than $160,000,000. Taking into consideration the specie in the country prior to 1849 and that produced since 1867, and we have more than $300,000,000 not accounted for by exportation or by the returns of the Treasury, and therefore most probably remaining in the country.

These are important facts, and show how completely the inferior currency will supersede the better, forcing it from circulation among the masses, and causing it to be exported as a mere article of trade, to add to the money capital of foreign lands. They show the necessity of retiring our paper money, that the return of gold and silver to the avenues of trade may be invited, and a demand created which will cause the retention at home of at least so much of the productions of our rich and inexhaustible gold-bearing fields as may be sufficient for purposes of circulation. It is unreasonable to expect a return to a sound currency so long as the Government and banks, by continuing to issue irredeemable notes, fill the channels of circulation with depreciated paper. Notwithstanding a coinage by our mints, since 1849, of $874,000,000, the people are now strangers to the currency which was designed for their use and benefit, and specimens of the precious metals bearing the national device are seldom seen, except when produced to gratify the interest excited by their novelty. If depreciated paper is to be continued as the permanent currency of the country, and all our coin is to become a mere article of traffic and speculation, to the enhancement in price of all that is indispensable to the comfort of the people, it would be wise economy to abolish our mints, thus saving the nation the care and expense incident to such establishments, and let all our precious metal be exported in bullion. The time has come, however, when the Government and national banks should be required to take the most efficient steps and make all necessary arrangements for a resumption of specie payments. Let specie payments once be earnestly inaugurated by the Government and banks, and the value of the paper circulation would directly approximate a specie standard.

Specie payments having been resumed by the Government and banks, all notes or bills of paper issued by either of a less denomination than twenty dollars should by law be excluded from circulation, so that the people may have the benefit and convenience of a gold and silver currency which, in all their business transactions, will be uniform in value at home and abroad.

"Every man of property or industry, every man who desires to preserve what he honestly possesses, or to obtain what he can honestly earn, has a direct interest in maintaining a safe circulating medium—such a medium as shall be real and substantial, not liable to vibrate with opinions, not subject to be blown up or blown down by the breath of speculation, but to be made stable and secure. A disordered currency is one of the greatest political evils. It undermines the virtues necessary for the support of the social system, and encourages propensities destructive of its happiness. It wars against industry, frugality, and economy, and it fosters the evil spirits of extravagance and speculation." It has been asserted by one of our profound and most gifted statesmen, that "of all the contrivances for cheating the laboring classes of mankind none has been more effectual than that which deludes them with paper money. This is the most effectual of inventions to fertilize the rich man's fields by the sweat of the poor man's brow. Ordinary tyranny, oppression, excessive taxation—these bear lightly on the happiness of the mass of the community compared with a fraudulent currency and the robberies committed by depreciated paper. Our own history has recorded for our instruction enough and more than enough of the demoralizing tendency, the injustice, and the intolerable oppression on the virtuous and well-disposed of a degraded paper currency authorized by law or in any way countenanced by Government." It is one of the most successful devices, in times of peace or war, of expansions or revulsions, to accomplish the transfer of all the precious metals from the great mass of the people into the hands of the few, where they are hoarded in secret places or deposited under bolts and bars, while the people are left to endure all the inconvenience, sacrifice, and demoralization resulting from the use of depreciated and worthless paper. * * *

During the fiscal year ending June 30, 1868, six million six hundred and fifty-five thousand seven hundred acres of public land were disposed of. * * *

On the 30th of June, 1868, one hundred and sixty-nine thousand six hundred and forty-three names were borne on the pension rolls, and during the year ending on that day the total amount paid for pensions, including the expenses

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of disbursement, was $24,010,982, being $5,391,025 greater than that expended for like purposes during the preceding year. * * *

Treaties with various Indian tribes have been concluded, and will be submitted to the Senate for its constitutional action. * * *

The strength of our military force on the 30th of September last was forty-eight thousand men, and it is computed that, by the 1st of January next, this number will be decreased to forty-three thousand. It is the opinion of the Secretary of War that within the next year a considerable diminution of the infantry force may be made without detriment to the interests of the country; and in view of the great expense attending the military peace establishment, and the absolute necessity of retrenchment wherever it can be applied, it is hoped that Congress will sanction the reduction which his report recommends. While in 1860 sixteen thousand three hundred men cost the nation $16,472,000, the sum of $65,682,000 is estimated as necessary for the support of the army during the fiscal year ending June 30, 1870. The estimates of the War Department for the last two fiscal years were, for 1867, $33,814,461; and for 1868, $25,205,669. The actual expenditures during the same periods were, respectively, $95,224,415 and $123,246,648. The estimate submitted in December last for the fiscal year ending June 30, 1869, was $77,124,707; the expenditures for the first quarter, ending the 30th of September last, were $27,219,117, and the Secretary of the Treasury gives $66,000,000 as the amount which will probably be required during the remaining three quarters, if there should be no reduction of the army—making its aggregate cost for the year considerably in excess of $93,000,000. The difference between the estimates and expenditures for the three fiscal years which have been named is thus shown to be $175,545,343 for this single branch of the public service. * * *

The total number of vessels in the navy is two hundred and six, mounting seventeen hundred and forty-three guns. Eighty-one vessels of every description are in use, armed with six hundred and ninety-six guns. The number of enlisted men in the service, including apprentices, has been reduced to eight thousand five hundred. * * *

The ordinary postal revenue for the fiscal year ending June 30, 1868, was $16,292,600, and the total expenditures, embracing all the service for which special appropriations have been made by Congress, amounted to $22,730,592, showing an excess of expenditures of $6,437,991. * * *

Comprehensive national policy would seem to sanction the acquisition and incorporation into our Federal Union of the several adjacent continental and insular communities as speedily as it can be done peacefully, lawfully, and without any violation of national justice, faith, or honor. Foreign possession or control of those communities has hitherto hindered the growth and impaired the influence of the United States. Chronic revolution and anarchy there would be equally injurious. Each one of them, when firmly established as an independent republic, or when incorporated into the United States, would be a new source of strength and power. Conforming my administration to these principles, I have on no occasion lent support or toleration to unlawful expeditions set on foot upon the plea of republican propagandism or of national extension or aggrandizement. The necessity, however, of repressing such unlawful movements clearly indicates the duty which rests upon us of adapting our legislative action to the new circumstances of a decline of European monarchical power and influence, and the increase of American republican ideas, interests, and sympathies.

It cannot be long before it will become necessary for this Government to lend some effective aid to the solution of the political and social problems which are continually kept before the world by the two republics of the Island of St. Domingo, and which are now disclosing themselves more distinctly than heretofore in the Island of Cuba. The subject is commended to your consideration with all the more earnestness because I am satisfied that the time has arrived when even so direct a proceeding as a proposition for an annexation of the two republics of the Island of St. Domingo would not only receive the consent of the people interested, but would also give satisfaction to all other foreign nations.

I am aware that upon the question of further extending our possessions it is apprehended by some that our political system cannot successfully be applied to an area more extended than our continent; but the conviction is rapidly gaining ground in the American mind that, with the increased facilities for intercommunication between all portions of the earth, the principles of free government, as embraced in our Constitution, if faithfully maintained and carried out, would prove of sufficient strength and breadth to comprehend within their sphere and influence the civilized nations of the world. * * *

I renew the recommendation contained in my communication to Congress dated the 18th July last, a copy of which accompanies this message, that the judgment of the people should be taken on the propriety of so amending the Federal Constitution that it shall provide—

First. For an election of President and Vice President by a direct vote of the people, instead of through the agency of electors, and making them ineligible for re-election to a second term.

Second. For a distinct designation of the person who shall discharge the duties of President in the event of a vacancy in that office by the death, resignation, or removal of both the President and Vice President.

Third. For the election of Senators of the United States directly by the people of the several States, instead of by the legislatures; and

Fourth. For the limitation to a period of years of the terms of federal judges.

Profoundly impressed with the propriety of making these important modifications in the Constitution, I respectfully submit them for the early and mature consideration of Congress. We should as far as possible remove all pretext for violations of the organic law, by remedying such imperfections as time and experience may develop, ever remembering that "the Constitution which at any time exists, until changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all."

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In the performance of a duty imposed upon me by the Constitution, I have thus communicated to Congress information of the state of the Union, and recommended for their consideration such measures as have seemed to me necessary and expedient. If carried into effect, they will hasten the accomplishment of the great and beneficent purposes for which the Constitution was ordained, and which it comprehensively states were "to form a more perfect Union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity." In Congress are vested all legislative powers, and upon them devolves the responsibility as well for framing unwise and excessive laws, as for neglecting to devise and adopt measures absolutely demanded by the wants of the country. Let us earnestly hope that before the expiration of our respective terms of service, now rapidly drawing to a close, an all-wise Providence will so guide our counsels as to strengthen and preserve the Federal Union, inspire reverence for the Constitution, restore prosperity and happiness to our whole people, and promote "on earth peace, good will toward men." ANDREW JOHNSON.

WASHINGTON, *December* 9, 1868.

XXXIX.

POLITICAL VOTES IN THIRD SESSION OF FORTIETH CONGRESS.

CONDEMNATION OF PRESIDENT JOHNSON'S PROPOSITION RESPECTING THE PAYMENT OF THE PUBLIC DEBT.

Condemnatory Resolutions.

IN SENATE.

1868, December 14—Mr. Willey submitted this resolution, which was reported from the Committee on Finance by Mr. Cattell, December 16:

Resolved, That the Senate, properly cherishing and upholding the good faith and honor of the nation, do hereby utterly disapprove of and condemn the sentiments and propositions contained in so much of the late annual message of the President of the United States as reads as follows:

"It may be assumed that the holders of our securities have already received upon their bonds a larger amount than their original investment, measured by a gold standard. Upon this statement of facts, it would seem but just and equitable that the six per cent. interest now paid by the Government should be applied to the reduction of the principal in semi-annual installments, which in sixteen years and eight months would liquidate the entire national debt. Six per cent. in gold would at present rates be equal to nine per cent. in currency, and equivalent to the payment of the debt one and a half times in a fraction less than seventeen years. This, in connection with all the other advantages derived from their investment, would afford to the public creditors a fair and liberal compensation for the use of their capital, and with this they should be satisfied. The lessons of the past admonish the lender that it is not well to be over-anxious in exacting from the borrower rigid compliance with the letter of the bond."

Mr. Hendricks moved this as a substitute:

That the Senate cordially endorse the sentiment in the President's message, "that our national credit should be sacredly observed," and declare that the public debt should be paid as rapidly as practicable, exactly in accordance with the terms of the contracts under which the several loans were made, and where the obligations of the Government do not expressly state upon their face, or the law under which they were issued does not provide, that they shall be paid in coin, they ought in right and justice to be paid in the lawful money of the United States.

Which was disagreed to—yeas 7, nays 44, as follow:

YEAS—Messrs. *Buckalew, Davis, Hendricks, McCreery, Saulsbury, Vickers, Whyte*—7.

NAYS—Messrs. Abbott, Anthony, Cattell, Chandler, Cole, Conkling, Corbett, *Dixon*, Drake, Edmunds, Ferry, Fessenden, Frelinghuysen, Grimes, Harris, Henderson, Howard, Howe, Kellogg, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Osborn, Pool, Ramsey, Rice, Robertson, Ross, Sawyer, Sherman, Spencer, Stewart, Sumner, Thayer, Trumbull, Van Winkle, Wade, Warner, Welch, Willey, Williams, Wilson, Yates—44.

December 18—The resolution was adopted—yeas 43, nays 6, as follow:

YEAS—Messrs. Abbott, Anthony, Cameron, Cattell, Chandler, Cole, Conkling, Corbett, Cragin, Dixon, Edmunds, Ferry, Fessenden, Frelinghuysen, Grimes, Harlan, Harris, Henderson, Howard, Howe, Kellogg, Morgan, Morrill of Vermont, Nye, Osborn, Pomeroy, Ramsey, Robertson, Ross, Sawyer, Sherman, Spencer, Stewart, Sumner, Thayer, Van Winkle, Wade, Warner, Willey, Williams, Wilson, Yates—43.

NAYS—Messrs. *Davis, McCreery, Patterson* of Tennessee, *Saulsbury, Vickers, Whyte*—6.

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IN HOUSE.

1868, December 14.—Mr. Broomall moved that the rules be suspended, so as to enable him to submit the following preamble and resolution:

Whereas the President of the United States, in his annual message to the Fortieth Congress, at its third session, says: "It may be assumed that the holders of our securities have already received upon their bonds a larger amount than their original investment, measured by a gold standard. Upon this statement of facts it would seem but just and equitable that the six per cent. interest now paid by the Government should be applied to the reduction of the principal in semi-annual installments, which in sixteen years and eight months would liquidate the entire national debt. Six per cent. in gold would at present rates be equal to nine per cent. in currency, and equivalent to the payment of the debt one and a half time in a fraction less than seventeen years. This, in connection with all the other advantages derived from their investment, would afford to the public creditors a fair and liberal compensation for the use of their capital, and with this they should be satisfied. The lessons of the past admonish the lender that it is not well to be over anxious in exacting from the borrower rigid compliance with the letter of the bond;" and whereas such sentiments, if permitted to go to the world without immediate protest, may be understood to be the sentiments of the people of the United States and their Representatives in Congress: therefore,

Resolved, That all forms and degrees of repudiation of national indebtedness are odious to the American people. And that under no circumstances will their Representatives consent to offer the public creditor, as full compensation, a less amount of money than that which the Government contracted to pay him.

The rules were suspended—yeas 135, nays 29.

A division of the question was called, the first division to include the preamble and the first sentence of the resolution. The previous question was called and seconded, and the main question ordered. A motion to reconsider the vote ordering the main question was tabled, yeas 134, nays 37. The question recurring on the first division of the question, a motion to table the preamble was lost—yeas 37, nays 133.

The first division of the question—being the preamble and the first sentence of the resolution—was then agreed to, yeas 155, nays 6, not voting 60, as follow:

YEAS—Messrs. Allison, Ames, Arnell, James M. Ashley, *Axtell*, Bailey, Baker, Baldwin, Banks, *Barnum*, Beaman, Beatty, Benjamin, Benton, Bingham, Blair, Boutwell, Bowen, Boyden, *Boyer*, Broomall, Buckley, Roderick R. Butler, Callis, *Cary*, *Chanler*, Churchill, Reader W. Clarke, Sidney Clarke, Coburn, Cook, Corley, Covode, Cullom, Dawes, Deweese, Dickey, Dixon, Donnelly, Driggs, Eckley, Edwards, Eggleston, Ela, Thomas D. Eliot, Farnsworth, Ferriss, Ferry, Fields, French, Garfield, *Getz*, *Glossbrenner*, Goss, Gove, Griswold, Haughey, Hawkins, Higby, Hooper, Hopkins, *Hotchkiss*, Chester D. Hubbard, *Richard D. Hubbard*, Hulburd, Hunter, Ingersoll, Jenckes, Alexander H. Jones, Judd, Julian, Kelley, Kellogg, Kelsey, Ketcham, Kitchen, Koontz, Lash, George V. Lawrence, Wm. Lawrence, Lincoln, Loan, Loughridge, Lynch, Mallory, Marvin, McCarthy, McKee, Mercur, Miller, Moore, Moorhead, Morrell, *Morrissey*, Mullins, Myers, Newsham, Norris, O'Neill, Orth, Paine, Perham, Peters, Pettis, *Phelps*, Pike, Pile, Plants, Poland, Polsley, Price, Prince, *Pruyn*, *Randall*, Ramm, Robertson, *Robinson*, Schenck, Scofield, Shanks, *Sitgreaves*, Smith, Spalding, Starkweather, Stevens, Stewart, Stokes, Stover, Sypher, *Taber*, Taffe, Taylor-Thomas, *Tift*, Trowbridge, Twichell, Upson, Van Aer, nam, Burt Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Ellihu B. Washburne, Henry D. Washburn, Wm. B. Washburn, Welker, Whittemore, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, *Wood*, Woodbridge, *Woodward*—155.

NAYS—Messrs. *Adams*, *Archer*, *Grover*, *Thomas L. Jones*, *Mungen*, *Lawrence S. Trimble*—6.

NOT VOTING—Messrs. Anderson, Delos R. Ashley, *Barnes*, *Beck*, Blackburn, Blaine, Boles, Bromwell, *Brooks*, Buckland, *Burr*, Benjamin F. Butler, Cake, Clift, Cobb, Cornell, Delano, Dockery, Dodge, *Eldridge*, *Fox*, *Golladay*, Gravely, *Haight*, Halsey, Hamilton, Harding, Heaton, Hill, *Holman*, Asahel W. Hubbard, *Humphrey*, *Johnson*, *Kerr*, *Knott*, Lafin, Logan, *Marshall*, Maynard, *McCormick*, *McCullough*, Newcomb, *Niblack*, *Nicholson*, Nunn, Pierce, Pomeroy, Roots, *Ross*, Sawyer, Selye, Shellabarger, *Stone*, John Trimble, *Van Auken*, Robert T. Van Horn, *Van Trump*, Vidal, Thomas Williams, *Young*—60.

The second division of the question—being the remaining portion of the preamble and resolution—was agreed to without a division.

Vote on Minority Representation.

IN HOUSE.

1869, January 19—Pending a bill (H. R. 1824) to preserve the purity of elections in the several Territories, Mr. Phelps moved this as an additional section:

"That the legislatures of the Territories hereinbefore named shall, at their first session after the passage of this act, provide by law for a reapportionment of the members of the several legislatures as nearly equal as may be among council and legislative districts, entitled each to elect three members of council and three representatives; and that the outlying districts, if any, to which it may be necessary that a less number than three shall be apportioned, shall be located in the least populous portions of said Territories; and that at the next legislative elections thereafter in said Territories every qualified voter shall be entitled to three votes for member of council, and three votes for member of the house of representatives, with the privilege of cumulating said votes upon any one or two of the candidates for either house respectively, it being the intent and meaning of this act to secure an equitable and just representation to minorities in said Territories in all cases where minority parties exceed in number two-fifths of the electoral body."

Which was disagreed to—yeas 49, nays 116, as follow, (not voting, 57):

YEAS—Messrs. Anderson, *Archer*, *Axtell*, Baker, *Barnes*, *Barnum*, *Beck*, Benjamin, Boyden, *Boyer*, Roderick R. Butler, *Chanler*, Cook, Deweese, *Getz*, *Glossbrenner*, Golladay, Gove, *Grover*, Hawkins, Heaton, *Holman*, *Hotchkiss*, *Humphrey*, Jenckes, Alexander H. Jones, *Thomas L. Jones*, *Kerr*, *Knott*, Lash, George V. Lawrence, Mallory, *Marshall*, *McCormick*, *McCullough*, *Mungen*, Newsham, *Nicholson*, *Phelps*, *Ross*, Spalding, *Stone*, *Taber*, Taffe, *Van Trump*, Ellihu B. Washburne, Stephen F. Wilson, *Woodward*, *Young*—49.

NAYS—Messrs. Allison, James M. Ashley, Bailey, Baldwin, Banks, Beaman, Beatty, Benton, Blaine, Blair, Boutwell, Bowen, Broomall, Buckland, Buckley, Callis, *Cary*, Reader W. Clarke, Sidney Clarke, Clift, Cobb, Coburn, Corley, Cornell, Covode, Cullom, Dawes, Dickey, Dodge, Eggleston, Ela, Thomas D. Eliot, James T. Elliott, Farnsworth, Ferriss, Fields, French, Goss, Gravely, Harding, Haughey, Higby, Hill, Hopkins,

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Hunter, Ingersoll, *Johnson*, Judd, Julian, Kellogg, Kelsey, Kitchen, Koontz, William Lawrence, Lincoln, Loughridge, Marvin, Maynard, McCarthy, McKee, Mercur, Miller, Moore, Moorhead, Mullins, Myers, Newcomb, *Niblack*, Norris, O'Neill, Orth, Paine, Perham, Pettis, Pierce, Pike, Pile, Plants, Poland, Polsley, Price, Prince, *Randall*, Raum, *Robinson*, Roots, Sawyer, Schenck, Scofield, Shanks, Shellabarger, *Sitgreaves*, Smith, Starkweather, Stevens, Stokes, Stover, Thomas, *Tift*, John Trimble, *Lawrence S. Trimble*, Upson, Van Aernam, *Van Auken*, Burt Van Horn, Vidal, Ward, Henry D. Washburn, William B. Washburn, Welker, Whittemore, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Windom —116.

Removal of Disabilities.

IN SENATE.

1868, December 9—Pending the bill to relieve from disabilities Franklin J. Moses, of South Carolina—

Mr. GARRETT DAVIS moved to add the words, "and all other citizens of the State of South Carolina."

Which was disagreed to—yeas 9, nays 44, as follow:

YEAS—Messrs. *Bayard, Davis, Dixon, Doolittle*, Ferry, *McCreery, Norton, Patterson* of Tennessee, *Saulsbury*—9.

NAYS—Messrs. Anthony, Cameron, Cattell, Chandler, Cole, Conkling, Conness, Corbett, Cragin, Drake, Edmunds, Fessenden, Fowler, Frelinghuysen, Grimes, Harlan, Harris, Howe, Kellogg, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Osborn, Patterson of New Hampshire, Pomeroy, Ramsey, Rice, Robertson, Sherman, Spencer, Stewart, Sumner, Thayer, Tipton, Trumbull, Van Winkle, Wade, Warner, Welch, Willey, Williams, Wilson, Yates—44.

[No general disability bill was passed at either the third session of the Fortieth Congress or the first session of the Forty-First.]

The Representation of Georgia.

IN HOUSE.

1869, January 28—Mr. Paine, from the Committee on Reconstruction, reported the following preamble and resolution:

Whereas it is provided by the reconstruction act, passed March 2, 1867, that until the people of the lately rebellious States shall be by law admitted to representation in Congress, any civil government which may exist therein shall be deemed provisional only, and that no persons shall be eligible to office in such provisional governments who are disqualified for office by the fourteenth amendment of the Constitution of the United States; and whereas it is reported that the legislature of Georgia has expelled the colored members thereof, and admitted to their seats white men who received minorities of votes at the polls, and that members of said legislature who had been elected thereto by the votes of colored men joined in such action, and that twenty-seven disqualified white men hold seats in said legislature in violation of the fourteenth amendment of the Constitution and of the reconstruction acts of Congress; and whereas Senators from Georgia have not yet been admitted to the Senate of the United States: therefore,

Resolved, That the Committee on Reconstruction be ordered to inquire and report whether any, and if any, what, further action ought to be taken during the Fortieth Congress respecting the representation of Georgia in this House.

Under the operation of the previous question, the resolution was agreed to—yeas 128, nays 34, not voting 60.

The NAYS were: Messrs. *Archer*, Baker, *Barnes, Beck, Boyer, Brooks, Burr, Cary, Chanler, Fox, Getz, Golladay, Grover, Haight, Hotchkiss, Humphrey, Thomas L. Jones, Kerr, Knott, Marshall, Niblack, Phelps, Pruyn, Randall, Ross, Sitgreaves*, Spalding, *Stone, Taber, Tift, Van Auken, Wood, Woodward, Young*—34.

The preamble was then agreed to—yeas 135, nays 34, not voting 53.

The NAYS were: Messrs. *Archer, Barnes, Beck, Boyer, Brooks, Burr, Chanler, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Hotchkiss, Richard D. Hubbard, Humphrey, Thomas L. Jones, Kerr, Knott, Marshall, Niblack, Phelps, Pruyn, Randall, Robinson, Ross, Sitgreaves, Stone, Taber, Tift, Van Auken, Wood, Woodward, Young*—34.

The Committee made no report.

Counting the Electoral Vote.

IN SENATE.

1869, February 6—Mr. Edmunds submitted this concurrent resolution:

Whereas the question whether the State of Georgia has become and is entitled to representation in the two houses of Congress is now pending and undetermined; and whereas by the joint resolution of Congress passed July 20, 1868, entitled "A resolution excluding from the electoral college votes of States lately in rebellion which shall not have been reorganized," it was provided that no electoral votes from any of the States lately in rebellion should be received or counted for President or Vice President of the United States until, among other things, such State should have become entitled to representation in Congress, pursuant to acts of Congress in that behalf: therefore,

Resolved by the Senate, (the House of Representatives concurring,) That on the assembling of the two houses on the second Wednesday of February, 1869, for the counting of the electoral votes for President and Vice President, as provided by law and the joint rules, if the counting or omitting to count the electoral votes, if any, which may be presented, as of the State of Georgia, shall not essentially change the result, in that case they shall be reported by the President of the Senate in the following manner: "Were the votes presented as of the State of Georgia to be counted, the result would be for —— ——, for President of the United States, —— votes; if not counted, for —— ——, for President of the United States, —— votes; but in either case —— —— is elected President of the United States; and in the same manner for Vice President.

February 8—It was adopted—yeas 34, nays 11, as follow:

YEAS—Messrs. Abbott, Anthony, Cameron, Cattell, Cole, Conkling, Corbett, Cragin, Drake, Edmunds, Frelinghuysen, Howard, McDonald, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Nye, Pool, Ramsey, Rice, Robertson, Ross, Sherman, Stewart, Sumner, Thayer, Tipton, Warner, Welch, Willey, Williams, Wilson, Yates—34.

NAYS—Messrs. *Buckalew, Davis*, Fowler, *Hendricks, McCreery, Norton, Patterson* of Tennessee, *Saulsbury*, Trumbull, *Vickers, Whyte*—11.

IN HOUSE.

February 8—The rules were suspended—yeas 97, nays 18, not voting 107—so as to enable the House to take up this resolution. The vote was as follows:

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YEAS—Messrs. Allison, Ames, Banks, Beaman, Beatty, Benjamin, Benton, Blaine, Blair, Boles, Bowen, Broomall, Buckland, Benjamin F. Butler, Roderick R. Butler, Churchill, Clift, Cobb, Coburn, Corley, Cullom, Dawes, Delano, Deweese, Dickey, Dixon, Dodge, Eckley, Ela, Ferriss, Ferry, Garfield, Halsey, Harding, Heaton, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Jenckes, Julian, Kelley, Kellogg, Kelsey, Koontz, Laflin, William Lawrence, Loan, Logan, Loughridge, Marvin, Maynard, McCarthy, McKee, Miller, Moore, Moorhead, Mullins, Norris, Paine, Perham, Peters, Pierce, Pile, Plants, Price, Prince, Raum, Roots, Sawyer, Schenck, Scofield, Shanks, Shellabarger, Starkweather, Stevens, Stewart, Stokes, Stover, Sypher, Taylor, Thomas, Trowbridge, Twichell, Upson, Robert T. Van Horn, Vidal, Henry D. Washburn, William B. Washburn, Welker, Whittemore, William Williams, James F. Wilson, John T. Wilson, Windom—97.

NAYS—Messrs. Baker, Boyden, *Boyer*, Farnsworth, *Getz*, *Holman*, *Hotchkiss*, *Johnson*, *Thomas L. Jones*, *Niblack*, *Phelps*, *Randall*, *Ross*, *Taber*, *Van Auken*, *Van Trump*, *Woodward*, *Young*—18.

The resolution was then taken up, and concurred in.

PROCEEDINGS UNDER THIS RESOLUTION.

On Wednesday, February 10, the two houses met in the Hall of the House for the purpose of opening and counting the votes for President and Vice President.

The President of the Senate then proceeded to open the certificates of the electors of the several States, authorized to be represented in the electoral college.* for President and Vice President. Upon the certificate of the electors of Louisiana being read—

Mr. Mullins objected to the counting of the vote of Louisiana, upon the ground that no valid election of electors had been held in said State.

The SENATE withdrew, and voted

That the votes of the electors of the State of Louisiana be counted—yeas 51, nays 7, as follow:

YEAS—Messrs. Abbott, Anthony, *Buckalew*, Cameron, Cattell, Cole, Conkling, Conness, Corbett, Cragin, *Davis*, *Dixon*, *Doolittle*, Drake, Edmunds, Ferry, Fessenden, Fowler, Frelinghuysen, Grimes, Harlan, Harris, *Hendricks*, Howe, Kellogg, *McCreery*, McDonald, Morgan, Morrill of Vermont, Osborn, Patterson of New Hampshire, *Patterson* of Tennessee, Pool, Ramsey, Rice, Ross, *Saulsbury*, Sawyer, Sherman, Spencer, Sprague, Stewart, Tipton, Trumbull, Van Winkle, *Vickers*, Warner, *Whyte*, Willey, Williams, Yates—51.

NAYS—Messrs. Chandler, Howard, Nye, Robertson, Sumner, Thayer, Wilson—7.

The HOUSE voted to count the vote of Louisiana—yeas 137 nays 63, not voting 22, as follow:

YEAS—Messrs. Allison, Ames, *Axtell*, Baker, *Barnes*, *Barnum*, Beaman, Beatty, *Beck*, Benjamin, Bingham, Blaine, Blair, Boyden, *Boyer*, Bromwell, *Brooks*, Broomall, Buckland, *Burr*, Roderick R. Butler, *Cary*, *Chanler*, Churchill, Coburn, Cullom, Delano, Deweese, Dickey, Dixon, Dockery, Dodge, Eggleston, *Eldridge*, Farnsworth, Ferriss, Ferry, Garfield, *Getz*, *Glossbrenner*, *Golladay*, Gove, Gravely, *Grover*, *Haight*, Halsey, Hawkins, Heaton, Higby, Hill, *Holman*, Hooper, Hopkins, *Hotchkiss*, Asahel W. Hubbard, *Humphrey*, Ingersoll, Jenckes, *Johnson*, Alexander H. Jones, *Thomas L. Jones*, Judd, Kelley, Kellogg, *Kerr*, Ketcham, Kitchen, *Knott*, Koontz, Laflin, Lash, George V. Lawrence, William Lawrence, Lincoln, Logan, Loughridge, Mallory, *Marshall*, Marvin, McCarthy, *McCormick*, *McCullough*, Miller, Moore, Moorhead, Mungen, Newcomb, *Niblack*, *Nicholson*, Norris, Nunn, Peters, *Phelps*, Pike, Pile, Plants, Poland, Polsley, Price, *Pruyn*, *Randall*, Raum, Robertson, *Ross*, Sawyer, Schenck, Scofield, Selye, Shellabarger, *Sitgreaves*, Smith, Spalding, Starkweather, Stewart, Stokes, *Stone*, *Taber*, Taffe, Taylor, Thomas, Tift, John Trimble, Trowbridge, Twichell, *Van Auken*, Burt Van Horn, *Van Trump*, Elihu B. Washburne, William B. Washburn, Welker, James F. Wilson, John T. Wilson, Windom, *Wood*, Woodbridge, *Woodward*, *Young*—137.

NAYS—Messrs. Delos R. Ashley, James M. Ashley, Banks, Benton, Blackburn, Boles, Boutwell, Bowen, Buckley, Benjamin F. Butler, Cake, Callis, Reader W. Clarke, Sidney Clarke, Clift, Cobb, Corley, Covode, Dawes, Donnelly, Driggs, Eckley, Edwards, Ela, Thomas D. Eliot, James T. Elliott, Fields, French, Hamilton, Harding, Haughey, Chester D. Hubbard, Hulburd, Hunter, Julian, Kelsey, Loan, Maynard, McKee, Morrell, Mullins, Newsham, O'Neill, Orth, Paine, Perham, Pettis, Pierce, Prince, Roots, Shanks, Stevens, Stover, Upson, Van Aernam, R. T. Van Horn, Van Wyck, Vidal, Ward, Henry D. Washburn, Whittemore, Thomas Williams, William Williams—63.

The SENATE returned, and the vote of Louisiana was then counted.

The certificates of all the States except Georgia having been read, and that of Georgia having been read,

Mr. Benjamin F. Butler submitted the following objection to counting the vote of Georgia:

First. I object, under the joint rule, that the vote of the State of Georgia for President and Vice President ought not to be counted, and object to the counting thereof because, among other things, the vote of the electors in the electoral college was not given on the first Wednesday of December, as required by law, and no excuse or justification for the omission of such legal duty is set forth in the certificate of the action of the electors.

Second. Because, at the date of the election of said electors, the State of Georgia had not been admitted to representation as a State in Congress since the rebellion of her people, or become entitled thereto.

Third. That at said date said State of Georgia had not fulfilled, in due form, all the requirements of the Constitution and laws of the United States known as the "reconstruction acts," so as to entitle said State of Georgia to be represented as a State in the Union in the electoral vote of the several States in the choice of President and Vice-President.

Fourth. That the election pretended to have been held in the State of Georgia, on the first Tuesday of November last past, was not a free, just, equal, and fair election, but the people of the State were deprived of their just rights therein by force and fraud.

The SENATE withdrew; and voted

That, under the special order of the two Houses respecting the electoral votes from the State of Georgia, the objections made to the counting of the electors for the State of Georgia are not in order—yeas 31, nays 26, as follow:

YEAS—Messrs. Abbott, Anthony, *Buckalew*, Cattell, Conness, Corbett, Cragin, *Davis*, *Dixon*, *Doolittle*, Edmunds, Fowler, Frelinghuysen, Grimes, *Hendricks*, Kellogg, *McCreery*, Morrill of Maine, Morrill of Vermont, Morton, Patterson of New Hampshire, *Patterson* of Tennessee, Ross, *Saulsbury*, Sawyer, Sherman, Sprague, Stewart, Tipton, *Vickers*, *Whyte*, Williams—31.

NAYS—Messrs. Cameron, Chandler, Cole, Conkling, Drake, Ferry, Fessenden, Harlan, Harris, Howe, McDonald, Morgan, Nye, Pool, Ramsey, Rice, Robertson, Spencer, Sumner, Thayer, Trumbull, Van Winkle, Wade, Warner, Willey, Yates—26.

Mr. Howard offered this resolution:

Resolved, That the electoral vote of Georgia ought not to be counted.

Which, being entertained as in order, was disagreed to—yeas 25, nays 34, as follow:

YEAS—Messrs. Abbott, Cameron, Chandler, Cole, Conkling, Drake, Harlan, Harris, Howard, Howe, Kellogg, McDonald, Nye, Osborn, Ramsey, Rice, Robertson, Sawyer, Spencer, Stewart, Sumner, Thayer, Wade, Wilson, Yates—25.

NAYS—*Buckalew*, Conness, Corbett, Cragin, *Davis*,

* For law governing this point, see Political Manual for 1868, p. 119, or Hand Book of Politics for 1868, p. 397.

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Dixon, Doolittle, Edmunds, Ferry, Fessenden, Fowler, Frelinghuysen, Grimes, *Hendricks, McCreery,* Morgan, Morrill of Maine, Morrill of Vermont, Morton, Patterson of New Hampshire, *Patterson* of Tennessee, Pool, Ross, *Saulsbury,* Sherman, Sprague, Tipton, Trumbull, Van Winkle, *Vickers,* Warner, *Whyte,* Willey, Williams—34.

The House voted on the question, Shall the vote of Georgia be counted? Yeas 41, nays 150, (not voting 31,) as follow:

YEAS—Messrs. *Axtell,* Baker, *Barnes, Barnum, Beck, Boyer, Brooks, Burr, Cary, Chanler, Eldridge,* Farnsworth, *Getz, Glossbrenner, Golladay, Grover, Haight,* Hawkins, *Holman, Hotchkiss, Humphrey, Johnson, T. L. Jones, Kerr, Knott, Marshall, McCormick, Mungen, Nicholson, Phelps, Pruyn, Randall, Ross, Sitgreaves, Taber, Tift, Van Auken, Van Trump, Wood, Woodward, Young*—41.

NAYS—Messrs. Allison, D. R. Ashley, J. M. Ashley, Baldwin, Banks, Beaman, Beatty, Benjamin, Benton, Bingham, Blaine, Blair, Boles, Boutwell, Bowen, Boyden, Bromwell, Broomall, Buckland, Buckley, Benj. F. Butler, Roderick R. Butler, Cake, Callis, Churchill, Reader W. Clarke, Sidney Clarke, Clift, Cobb, Coburn, Corley, Covode, Cullom, Dawes, Deweese, Dickey, Dixon, Dodge, Donnelly, Driggs, Eckley, Edwards, Eggleston, Ela, Thomas D. Eliot, James T. Elliott, Ferriss, Ferry, Fields, French, Garfield, Goss, Gove, Gravely, Halsey, Hamilton, Harding, Haughey, Heaton, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Alexander H. Jones, Judd, Julian, Kelley, Kellogg, Kelsey, Ketcham, Kitchen, Koontz, Laflin, Lash, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, Mallory, Marvin, Maynard, McCarthy, McKee, Miller, Moore, Moorhead, Morrell, Mullins, Newcomb, Newsham, Norris, O'Neill, Orth, Paine, Perham, Peters, Pettis, Pierce, Pike, Pile, Plants, Poland, Polsley, Price, Prince, Raum, Robertson, Roots, Sawyer, Schenck, Scofield, Selye, Shanks, Shellabarger, Starkweather, Stevens, Stewart, Stokes, Stover, Sypher, Taffe, Taylor, Thomas, Trimble, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Vidal, Ward, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Whittemore, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom—150.

The SENATE returned, and the vote of Georgia was counted in the manner provided by the concurrent resolution, and Ulysses S. Grant was declared duly elected President, and Schuyler Colfax Vice-President of the United States for four years, commencing on the 4th day of March, 1869.

For the Further Security of Equal Rights in the District of Columbia.

1869, February 11—The Senate passed the following bill without division:

FORTIETH CONGRESS, THIRD SESSION.

Be it enacted, &c., That the word "white," wherever it occurs in the laws relating to the District of Columbia, or in the charter or ordinances of the cities of Washington or Georgetown, and operates as a limitation on the right of any elector of such District, or of either of the cities, to hold any office, or to be selected and to serve as a juror, be, and the same is hereby, repealed; and it shall be unlawful for any person or officer to enforce or attempt to enforce said limitation after the passage of this act.

IN HOUSE.

March 2—It passed, without a call of the yeas and nays.

March 3—It was presented to the President (Johnson), and "pocketed."

FORTY-FIRST CONGRESS, FIRST SESSION.

March 8—The SENATE passed the same bill, without a division.

March 16—The HOUSE passed it—yeas 111, nays 46, (not voting 39,) as follow:

YEAS—Messrs. Ambler, Armstrong, Arnell, Asper, Bailey, Banks, Beaman, Beatty, Benjamin, Benton, Bingham, Blair, Boles, Boyd, Buffinton, Burdett, Benjamin F Butler, Roderick R. Butler, Cessna Churchill, Clarke, Amasa Cobb, Clinton L. Cobb, Conger, Cullom, Davis, Dawes, Deweese, Dockery, Donley, Duval, Dyer, Ela, Ferriss, Ferry, Finkelnburg, Fisher, Fitch, Garfield, Gilfillan, Hale, Heaton, Hoar, Hooper, Hopkins, Hotchkiss, Ingersoll, Jenckes, Alexander H. Jones, Judd, Julian, Kelley, Kelsey, Ketcham, Knapp, Laflin, Lash, Lawrence, Loughridge, Maynard, McCarthy, McCrary, McGrew, Mercur, Eliakim H. Moore, Jesse H. Moore, William Moore, Morrell, Morrill, Negley, O'Neill, Orth, Packard, Paine, Palmer, Peters, Phelps, Poland, Pomeroy, Prosser, Roots, Sanford, Sargent, Sawyer, Schenck, Scofield, Shanks, John A. Smith, William J. Smith, William Smyth, Stevenson, Stokes, Stoughton, Strickland, Taffe, Tanner, Tillman, Townsend, Twichell, Tyner, Upson, Van Horn, Cadwalader C. Washburn, William B. Washburn, Welker, Wheeler, Whittemore, Wilkinson, Willard, Williams, Winans—111.

NAYS—Messrs. *Archer, Axtell, Beck, Biggs, Bird, Brooks, Burr, Calkin, Crebs, Dickinson, Eldridge, Getz, Golladay, Haight, Haldeman, Hamill, Holman, Johnson, Thomas L. Jones, Knott, Marshall, Mayham, McCormick, McNeely, Moffet, Morgan, Mungen, Niblack, Potter, Reading, Reeves, Rice, Slocum, Joseph S. Smith, Stone, Strader, Swann, Sweeney, Trimble, Van Auken, Van Trump, Wells, Eugene M. Wilson, Winchester,* Witcher, *Wood*—46.

The bill was approved by President Grant, March 18, 1869.

BILL TO STRENGTHEN THE PUBLIC CREDIT.

Fortieth Congress.

IN HOUSE.

1869, February 24—This bill passed:

AN ACT to strengthen the public credit, and relating to contracts for the payment of coin.

Be it enacted, &c., That in order to remove any doubt as to the purpose of the Government to discharge all just obligations to the public creditors, and to settle conflicting questions and interpretations of the laws by virtue of which such obligations have been contracted, it is hereby provided and declared, that the faith of the United States is solemnly pledged to the payment in coin, or its equivalent, of all the interest-bearing obligations of the United States, except in cases where the law authorizing the issue of any such obligation has expressly provided that the same may be paid in lawful money or other currency than gold and silver: *Provided, however,* That before any of said interest-bearing obligations not already due shall mature, or be paid before maturity, the obligations not bearing interest, known as United States notes, shall be made convertible into coin at the option of the holder.

SEC 2. That any contract hereafter made specifically payable in coin, and the consideration of which may be a loan of coin, or a sale of property, or the rendering of labor or service of any kind, the price of which, as carried into the contract, may have been adjusted on the basis of the coin value thereof at the time of such sale or the rendering of such service or labor, shall be legal and valid, and may be enforced according to its terms; and on the trial of a suit brought for the enforcement of any such contract, proof of the real consideration may be given.

Yeas 121, nays 60, (not voting 41,) as follow:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, *Axtell,* Baldwin, Banks,

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Barnum, Beaman, Benjamin, Benton, Blackburn, Blaine, Blair, Boyden, *Boyer*, *Brooks*, Broomall, Buckley, Callis, *Chanler*, Churchill, Reader W. Clarke, Sidney Clarke, Clift, Corley, Cornell, Cullom, Dawes, Delano, Dixon, Dodge, Driggs, Eckley, Thomas D. Eliot, James T. Elliott, Ferriss, Ferry, Fields, Garfield, *Getz*, *Glossbrenner*, Gove, Griswold, Halsey, Harding, Heaton, Higby, Hill, Hooper, *Hotchkiss*, Chester D. Hubbard, *Richard D. Hubbard*, Hulburd, Jenckes, Alexander H. Jones, Judd, Julian, Kellogg, Kelsey, Ketcham, Kitchen, Koontz, Laflin, Lash, George V. Lawrence Lynch, Marvin, Maynard, McKee, Mercur, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newcomb, Newsham, Norris, O'Neill, Paine, Perham, Peters, Pettis, *Phelps*, Plants, Poland, Pomeroy, Price, Raum, Robertson, *Robinson*, Roots, Sawyer, Schenck, Scofield, Shellabarger, Smith, Spalding, Starkweather, Stewart, Stover, *Taber*, Taylor, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Cadwalader C. Washburn, William B. Washburn, Welker, Whittemore, Thomas Williams, James F. Wilson, Windom—121.

NAYS—Messrs. *Archer*, Baker, Beatty, *Beck*, Bowen, Bromwell, *Burr*, Benjamin F. Butler, Roderick R. Butler, Cake, *Cobb*, Coburn, Cook, Covode, Deweese, Donnelly, Eggleston, Ela, *Eldridge*, Farnsworth, *Fox*, French, *Golladay*, Goss, *Grover*, *Haight*, Hawkins, *Holman*, Hopkins, *Humphrey*, Hunter, Ingersoll, *Johnson*, *Thomas L. Jones*, Kelley, *Kerr*, *Knott*, William Lawrence, Loughridge, *Marshall*, *McCormick*, *Mungen*, *Niblack*, Nunn, Orth, Pike, *Ross*, Shanks, Stevens, Stokes, *Stone*, Taffe, Thomas, *Tift*, *Van Trump*, Henry D. Washburn, William Williams, John T. Wilson, *Wood*, *Young*—60.

Pending the passage,

Mr. Niblack moved to strike out the first section, which was lost—yeas 54, nays 130, (not voting 38,) as follow:

YEAS—Messrs. *Archer*, Baker, *Barnes*, Beatty, *Beck*, Bowen, *Burr*, Roderick R. Butler, Cobb, Coburn, Deweese, Donnelly, Eggleston, Ela, *Eldridge*, Farnsworth, *Fox*, *Getz*, *Golladay*, Goss, Gravely, *Grover*, *Haight*, Hawkins, *Holman*, Hopkins, *Humphrey*, Hunter, Ingersoll, *Johnson*, *Thomas L. Jones*, *Kerr*, *Knott*, Loan, *Marshall*, *McCormick*, *Mungen*, *Niblack*, Orth, Pike, *Pruyn*, *Ross*, Shanks, Stevens, Stokes, *Stone*, Taffe, *Tift*, *Van Auken*, *Van Trump*, Henry D. Washburn, John T. Wilson, *Wood*, *Young*—54.

NAYS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, *Axtell*, Baldwin, Banks, *Barnum*, Beaman, Benjamin, Benton, Bingham, Blackburn, Blaine, Blair, Boutwell, Boyden, *Boyer*, Bromwell, *Brooks*, Broomall, Buckley, Cake, *Chanler*, Churchill, Reader W. Clarke, Sidney Clarke, Clift, Corley, Cornell, Covode, Cullom, Delano, Dickey, Dixon, Dockery, Dodge, Driggs, Eckley, Thomas D. Eliot, James T. Elliott, Ferriss, Ferry, Fields, *Glossbrenner*, Gove, Griswold, Halsey, Harding, Heaton, Higby, Hill, Hooper, *Hotchkiss*, Chester D. Hubbard, *Richard D. Hubbard*, Hulburd, Jenckes, Alexander H. Jones, Judd, Julian, Kelley, Kellogg, Kelsey, Ketcham, Kitchen, Koontz, Laflin, Lash, George V. Lawrence, William Lawrence, Logan, Lynch, Mallory, Marvin, Maynard, McKee, Mercur, Miller, Moore, Moorhead, Mullins, Myers, Newsham, Norris, O'Neill, Paine, Perham, Peters, Pettis, *Phelps*, Pierce, Pile, Plants, Poland, Pomeroy, Price, Prince, Raum, Robertson, Roots, Sawyer, Schenck, Scofield, Shellabarger, Smith, Spalding, Starkweather, Stewart, Stover, Taber, Taylor, Thomas, Trimble, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Ward, Cadwalader C. Washburn, William B. Washburn, Welker, Whittemore, Thomas Williams, William Williams, James F. Wilson, Windom—130.

Mr. Allison moved to strike out the second section, which was lost—yeas 72, nays 100, (not voting 50,) as follow:

YEAS—Messrs. Allison, Baker, Beatty, *Beck*, Benton, Bowen, Bromwell, Benjamin F. Butler, Cake, Clift, Cobb, Coburn, Cook, Cornell, Cullom, Deweese, Dickey, Donnelly, Eckley, Ela, *Eldridge*, Farnsworth, Ferriss, Ferry, *Fox*, *Golladay*, Goss, Gravely, Hawkins, *Holman*, Hooper, Hopkins, Hunter, Ingersoll, Kelley, Kelsey, *Knott*, Koontz, William Lawrence, Loan, Loughridge, Lynch, Maynard, Miller, Moore, Morrell, Mullins, *Mungen*, Myers, *Niblack*, Nunn, O'Neill, Orth, Peters, Robertson, *Ross*, Sawyer, Shanks, Shellabarger, Smith, Stevens, Stokes, Taffe, Thomas, *Tift*, Upson, *Van Trump*, Henry D. Washburn, Thomas Williams, William Williams, John T. Wilson, *Young*—72.

NAYS—Messrs. Ames, Anderson, *Archer*, Arnell, Delos R. Ashley, James M. Ashley, *Axtell*, Baldwin, Banks, *Barnes*, *Barnum*, Beaman, Benjamin, Blackburn, Blair, Boyden, *Boyer*, *Brooks*, Broomall, Buckley, Roderick R. Butler, Callis, *Chanler*, Churchill, Reader W. Clarke, Corley, Covode, Dawes, Delano, Dixon, Dodge, Driggs, Edwards, Thomas D. Eliot, James T. Elliott, Fields, *Getz*, *Glossbrenner*, Gove, Griswold, *Grover*, *Haight*, Halsey, Harding, Heaton, *Hotchkiss*, Chester D. Hubbard, *Richard D. Hubbard*, Hulburd, Jenckes, *Johnson*, Alexander H. Jones, *Thomas L. Jones*, Judd, Julian, *Kerr*, Ketcham, Kitchen, Laflin, Lash, George V. Lawrence, Mullory, Marvin, McCormick, McKee, Mercur, Moorhead, Newsham, Norris, Paine, Perham, *Phelps*, Pierce, Pike, Plants, Poland, Pomeroy, Price, *Pruyn*, Raum, Schenck, Scofield, Spalding, Starkweather, Stewart, *Stone*, Stover, *Taber*, Taylor, Trowbridge, Twichell, Van Aernam, *Van Auken*, Burt Van Horn, Hamilton, Ward, William B. Washburn, Welker, Whittemore, James F. Wilson, *Wood*—100.

IN SENATE.

February 26—The bill was reported back from the Committee on Finance, amended so as to read as follows:

AN ACT relating to the public debt.

Be it enacted, &c., That in order to remove any doubt as to the purpose of the Government to discharge all just obligations to the public creditors, and to settle conflicting questions and interpretations of the laws by virtue of which such obligations have been contracted, it is hereby provided and declared, that the faith of the United States is solemnly pledged to the payment in coin, or its equivalent, of all the obligaions of the United States, except in cases where the law authorizing the issue of any such obligation has expressly provided that the same may be paid in lawful money or other currency than gold and silver.

SEC. 2. That any contract hereafter made specifically payable in coin, and the consideration of which may be a loan of coin, or a sale of property, or the rendering of labor or service of any kind, the price of which, as carried into the contract, may have been adjusted on the basis of the coin value thereof at the time of such sale or the rendering of such service or labor, shall be legal and valid, and may be enforced according to its terms.

February 27 Mr. Henderson moved to amend the first clause of the second section by making it read as follow:

That any contract hereafter made specifically payable in coin shall be legal and valid, and may be enforced according to its terms.

Which was not agreed to—yeas 10, nays 35, as follow:

YEAS—Messrs. Cole, Conkling, Corbett, *Dixon*, Fessenden, Henderson, Pomeroy, Ross, Stewart, Trumbull—10.

NAYS—Messrs. Abbott, Anthony, Cameron, Cattell, Chandler, Conness, Cragin, *Davis*, *Doolittle*, Drake, Edmunds, Ferry, Frelinghuysen, Harlan, Howe, Kellogg, *McCreery*, McDonald, Morgan, Morrill of Vermont, Morton, Nye, Osborn, Patterson of New Hampshire, Ramsey, Rice, Sawyer, Sherman, Sumner, Thayer, Wade, Welch, Willey, Williams, Wilson—35.

Mr. Bayard moved to strike out the second section, which was not agreed to—yeas 7, nays 36, as follow:

YEAS—Messrs. Chandler, Cole, *Davis*, *Doolittle*, Fowler, Howe, Wade—7.

NAYS—Messrs. Abbott, Anthony, Cameron, Cattell, Conkling, Conness, Corbett, Cragin, *Dixon*, Drake, Edmunds, Ferry, Fessenden, Frelinghuysen, Harlan, Kellogg, *McCreery*, McDonald, Morgan, Morrill of Vermont, Morton, Nye, Osborn, Patterson of New Hampshire, Pomeroy, Ramsey, Ross, Sherman, Stewart, Sumner, Thayer, Trumbull, Welch, Willey, Williams, Wilson—36.

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Mr. Henderson moved to amend the first section so as to make it read as follows:

That it is hereby provided and declared that the faith of the United States is solemnly pledged to an early resumption of specie payment by the Government in order that conflicting questions touching the mode of discharging the public indebtedness may be settled and that the same may be paid in gold.

Which was not agreed to—yeas 8, nays 34, as follow:

YEAS—Messrs. Cole, *Davis*, Henderson, Morton, Pomeroy, Robertson, Ross, Spencer—8.

NAYS—Anthony, Cattell, Conkling, Conness, Corbett, Cragin, *Dixon*, Edmunds, Ferry, Fessenden, Frelinghuysen, Grimes, Harlan, Harris, Howard, McDonald, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Osborn, Patterson of New Hampshire, Sawyer, Sherman, Stewart, Sumner, Thayer, Tipton, Wade, Warner, Welch, Willey, Williams, Wilson—34.

The bill, as amended by the report of the Committee on Finance, was then passed—yeas 30, nays 16, as follow:

YEAS—Messrs. Abbott, Cattell, Conkling, Conness, Corbett, Cragin, *Dixon*, Edmunds, Ferry, Fessenden, Frelinghuysen, Grimes, Harlan, Harris, Howard, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Patterson of New Hampshire, Robertson, Sawyer, Sherman, Stewart, Sumner, Thayer, Tipton, Willey, Williams, Wilson—30.

NAYS—Messrs. Cole, *Davis*, *Doolittle*, Fowler, Henderson, *Hendricks*, *McCreery*, McDonald, Morton, Osborn, *Patterson* of Tennessee, Pomeroy, Ross, Spencer, Wade, Welch—16.

The title was amended so as to read "An act in relation to the public debt."

March 2—The House non-concurred in the amendments of the Senate, and a committee of conference (Messrs. Schenck, Allison, and Niblack) appointed.

Same day—The Senate insisted on its amendments, and appointed Messrs. Sherman, Williams, and Morton a conference committee.

March 3—The committee reported the following bill:

AN ACT to strengthen the public credit, and relating to contracts for the payment of coin.

Be it enacted, &c., That in order to remove any doubt as to the purpose of the Government to discharge all just obligations to the public creditors, and to settle conflicting questions and interpretations of the laws by virtue of which such obligations have been contracted, it is hereby provided and declared, that the faith of the United States is solemnly pledged to the payment in coin, or its equivalent, of all the obligations of the United States not bearing interest known as United States notes, and of all the interest-bearing obligations of the United States except in cases where the law authorizing the issue of any such obligation has expressly provided that the same may be paid in lawful money or other currency than gold and silver But none of said interest bearing obligations not already due shall be redeemed or paid before maturity, unless at such time United States notes shall be convertible into coin at the option of the holder. or unless at such time bonds of the United States bearing a lower rate of interest than the bonds to be redeemed can be sold at par in coin. And the United States also solemnly pledges its faith to make provision at the earliest practicable period for the redemption of the United States notes in coin.

SEC. 2. That any contract hereafter made specifically payable in coin, and the consideration of which may be a loan of coin, or a sale of property, or the rendering of labor or service of any kind, the price of which, as carried into the contract, may have been adjusted on the basis of the coin value thereof at the time of such sale or the rendering of such service or labor, shall be legal and valid, and may be enforced according to its terms; and on the trial of a suit brought for the enforcement of any such contract, proof of the real consideration may be given.

Same day—The Senate agreed to the report—yeas 31, nays 24, as follow:

YEAS—Messrs. Abbott, Anthony, Cameron, Cattell, Chandler, Conkling, Conness, Corbett, Cragin, *Dixon*, Drake, Edmunds, Ferry, Fessenden, Frelinghuysen, Harris, Howard, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Patterson of New Hampshire, Ramsey, Sherman, Stewart, Sumner, Trumbull, Van Winkle, Warner, Willey, Williams—31.

NAYS—Messrs. *Bayard*, *Buckalew*, Cole, *Davis*, *Doolittle*, Fowler, *Hendricks*, Kellogg, *McCreery*, McDonald, Morton, *Norton*, Osborn, *Patterson* of Tennessee, Robertson, Ross, Sawyer, Spencer, Sprague, Thayer, Tipton, *Vickers*, Wade, *Whyte*—24.

Same day—The House adopted the report—yeas 117, nays 59, (not voting 48,) as follow:

YEAS—Messrs. Allison, Ames, Arnell, Delos R. Ashley, James M. Ashley, *Axtell*, Bailey, *Barnes*, *Barnum*, Beaman, Benjamin, Benton, Bingham, Blair, Boutwell, Bowen, Boyden, *Brooks*, Broomall, Buckley, Cake, Callis, *Chanler*, Churchill, Reader W. Clarke, Sidney Clarke, Clift, Corley, Cornell, Cullom, Dawes, Dickey, Dixon, Dodge, Eckley, Thomas D. Eliot, James T. Elliott, Ferriss, Ferry, Fields, Garfield, Gove, Griswold, Halsey, Haughey, Heaton, Higby, Hill, Hooper, *Hotchkiss*, *Richard D. Hubbard*, Hulburd, Jenckes, Alexander H Jones, Judd, Julian. Kellogg, Kelsey, Ketcham, Laflin, Lash, George V. Lawrence, Lincoln, Logan, Lynch, Mallory, Marvin, Maynard. McCarthy, McKee, Mercur, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newsham, Norris. O'Neill, Paine, Perham, Peters, *Phelps*, Pile, Plants, Poland. Price, Prince, Raum, Robertson, *Robinson*, Roots. Sawyer, Schenck, Scofield, Shellabarger, Smith, Starkweather, Stevens, Stewart, Stover, Sypher, *Taber*, Taylor, Trowbridge, Twichell, Upson, Burt Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, William B. Washburn, Welker, Whittemore, James F. Wilson, Woodbridge—117.

NAYS—Messrs. *Adams*, *Archer*, Baker, Beatty, *Beck*, *Boyer*, Bromwell, *Burr*, Benjamin F Butler. Roderick R. Butler, *Cary*, Cobb, Coburn, Cook, Deweese, Dockery, Donnelly, Eggleston, *Eldridge*, Farnsworth, *Getz*, *Golladay*, Goss, *Haight*, Harding, Hawkins, *Holman*, Hopkins, Hunter, Ingersoll, *Johnson*, *Thomas L. Jones*, *Kerr*, *Knott*, William Lawrence, *Marshall*, *McCormick*, *McCullough*, *Mungen*, *Niblack*, Orth, *Pruyn*, *Randall*, *Ross*, Shanks, *Sitgreaves*, *Stone*, Thomas. *Tift*, *Trimble*, Van Aernam, *Van Auken*, *Van Trump*, Henry D. Washburn, William Williams, Stephen F. Wilson, *Wood*, *Woodward*, *Young*—59.

The President (Johnson) "pocketed" the bill.

[For other votes on this subject in first session, Forty-First Congress, see a subsequent chapter.]

TENURE-OF-OFFICE ACT.

Fortieth Congress, Third Session.

IN HOUSE.

1869, January 11—A bill to repeal an act regulating the tenure of certain civil offices, passed March 2, 1867,* was introduced by Mr. H. D. Washburn, and read a first and second time. The previous question on the engrossment of the

* For copy of the act, and votes on passage, see Political Manual for 1867, pp. 50, 51; and Hand Book of Politics, pp. 176, 177.

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bill was ordered—yeas 116, nays 47; and the bill was ordered engrossed, and was read a third time. It was then passed—yeas 121, nays 47, not voting 53, as follow:

YEAS—Messrs. Allison, Anderson, *Axtell*, Bailey, Baldwin, Banks, *Barnum*, Beaman, *Beck*, Bingham, Blaine, Blair, Boutwell, Bowen, Boyden, Buckley, *Burr*, Benjamin F. Butler, Roderick R. Butler, Callis, *Cary*, *Chanler*, Reader W. Clarke, Sidney Clarke, Clift, Cobb, Coburn, Cook, Corley, Cornell, Cullom, Dawes, Deweese, Dixon, Driggs, Eckley, *Eldridge*, Thomas D. Eliot, Fields, *Fox*, *Getz*, *Glossbrenner*, *Golladay*, Goss, Gove, Griswold, *Grover*, *Haight*, Halsey, Haughey, Heaton, Hooper, Hopkins, *Hotchkiss*, *Humphrey*, Hunter, Ingersoll, *Johnson*, Alexander H. Jones, *Thomas L. Jones*, Judd, Julian, Kelley, Kellogg, *Kerr*, Ketcham, *Knott*, Lash, George V. Lawrence, Lincoln, Loughridge, Mallory, Marvin, *McCormick*, *McCullough*, Miller, *Mungen*, Newcomb, *Niblack*, *Nicholson*, Norris, O'Neill, Paine, Peters, Pettis, *Phelps*, Plants, Price, Prince, Robertson, *Robinson*, Roots, Sawyer, Scofield, *Sitgreaves*, Spalding, Starkweather, Stevens, Stewart, *Stone*, Stover, Sypher, *Taber*, Thomas, *Tift*, *Trimble*, Trowbridge, Twichell, *Van Auken*, *Van Trump*, Vidal, Ellihu B. Washburne, Henry D. Washburn, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, Woodbridge, *Woodward*, *Young*—121.

NAYS—Messrs. Ames, Arnell, Delos R. Ashley, Baker, Beatty, Benjamin, Benton, Boles, Bromwell, Buckland, Churchill, Delano, Ela, Farnsworth, Ferriss, French, Garfield, Harding, Higby, Jenckes, Kelsey, Kitchen, Laflin, Maynard, McCarthy, McKee, Mercur, Moore, Moorhead, Morrell, Mullins, Newsham, Perham, Pike, Poland, Polsley, Pomeroy, Schenck, Shanks, Shellabarger, Stokes, Taffe, John Trimble, Upson, Ward, Welker, Whittemore—47.

NOT VOTING—Messrs. *Adams*, *Archer*, James M. Ashley, *Barnes*, Blackburn, *Boyer*, *Brooks*, Broomall, Cake, Covode, Dickey, Dockery, Dodge, Donnelly, Edwards, Eggleston, Ferry, Gravely, Hamilton, Hawkins, Hill, *Holman*, Asahel W. Hubbard, Chester D. Hubbard, *Richard D. Hubbard*, Hulburd, Koontz, William Lawrence, Loan, Logan, Lynch, *Marshall*, *Morrissey*, Myers, Nunn, Orth, Pierce, Pile, *Pruyn*, *Randall*, Raum, *Ross*, Selye, Smith, Taylor, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Cadwalader C. Washburn, William B. Washburn, Thomas Williams, *Wood*—53.

IN SENATE.

No direct vote was reached on the above bill in the Senate. And pending the legislative appropriation bill—

March 2—Mr. Morton moved as an additional section the House repealing bill.

Mr. Sumner offered the following substitute for that amendment:

That the first section of the act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, is hereby amended so as to read as follows: "That every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office and shall become duly qualified to act therein, is and shall be entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, except as herein otherwise provided.

"SEC. —. That the second section of such act is hereby amended so as to read as follows: That it shall be lawful for the President, whenever, during a recess of the Senate, in his opinion the public good shall require it, to suspend any officer appointed as aforesaid, excepting judges of the United States courts, and to designate some suitable person to perform temporarily the duties of such office until the next meeting of the Senate, and until the matter shall be acted upon by the Senate; and such person so designated shall take the oaths and give the bonds required by law to be taken and given by the person duly appointed to fill such office; and in case of such suspension, it shall be the duty of the President, within twenty days after the first day of such next meeting of the Senate, to report to the Senate such suspension, with the name of the person so designated to perform the duties of such office; and if the Senate shall concur in such suspension, and advise and consent to the removal of such officer, they shall so certify to the President, who may thereupon remove such officer, and, by and with the advice and consent of the Senate, appoint another person to such office; but if the Senate shall refuse to concur in such suspension the officer so suspended shall forthwith resume the functions of his office, and the powers of the person so performing its duties in his stead shall cease; and the official salary and emoluments of such officer shall during such suspension belong to the person so performing the duties thereof and not to the officer so suspended: *Provided*, however, that the President may, in his discretion, before reporting such suspension to the Senate as above provided, revoke the same, and reinstate such officer in the performance of the duties of his office.

"SEC. —. That no person shall hold nor shall he receive salary or compensation for performing the duties of more than one office or place of trust or profit under the Constitution or laws of the United States at the same time, whether such office or place be civil, military, or naval; and any person holding any such office or place who shall accept or hold any other office or place of trust or profit under the Constitution or laws of the United States shall be deemed to have vacated the office or place which he held at the time of such acceptance.

"SEC.—. That nothing in the foregoing section shall be construed to prevent such designations or appointments of officers to perform temporarily the duties of other officers as are or may be authorized by law, nor to prevent such appointments or designations to office or duty as are required by law to be made from the army or navy.

"SEC. —. That the penalties provided in the act to which this is an amendment shall apply to violations of this act.

Which was not agreed to—yeas 17, nays 32, as follow:

YEAS—Messrs. Chandler, Conkling, Cragin, Harlan, Harris, Howard, Howe, Morrill of Maine, Morrill of Vermont, Patterson of New Hampshire, Ramsey, Sawyer, Sprague, Sumner, Welch, Willey, Williams—17.

NAYS—Messrs. Abbott, Cameron, Cattell, Cole, Conness, Corbett, *Dixon*, Drake, Ferry, Frelinghuysen, Grimes, Henderson, McDonald, Morgan, Morton, Nye, Osborn, Pomeroy, Pool, Robertson, Ross, Sherman, Spencer, Thayer, Tipton, Trumbull, Van Winkle, *Vickers*, Wade, Warner, *Whyte*, Wilson—32.

The amendment offered by Mr. Morton was then disagreed to—yeas 22, nays 26, as follow:

YEAS—Messrs. Cole, Conness, *Dixon*, Drake, Grimes, Henderson, Kellogg, McDonald, Morgan, Morton, Osborn, Pomeroy, Pool, Ramsey, Robertson, Ross, Sherman, Thayer, Van Winkle, *Vickers*, Warner, *Whyte*—22.

NAYS—Messrs. Abbott, Anthony, Cameron, Chandler, Corbett, Cragin, Ferry, Frelinghuysen, Harlan, Harris, Howard, Howe, Morrill of Maine, Morrill of Vermont, Patterson of New Hampshire, Sawyer, Spencer, Sprague, Sumner, Tipton, Trumbull, Wade, Welch, Willey, Williams, Wilson—26.

[For further votes on this subject, see a subsequent chapter.]

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XL.

XVTH CONSTITUTIONAL AMENDMENT.

A RESOLUTION proposing an amendment to the Constitution of the United States.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of both houses concurring,) That the following article be proposed to the legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three-fourths of said legislatures, shall be valid as part of the Constitution, namely:

ARTICLE XV.

SEC. 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

SCHUYLER COLFAX,
Speaker of the House of Representatives.
B. F. WADE,
President of the Senate pro tempore.

Attest:
EDWD. MCPHERSON,
Clerk of House of Representatives.
GEO. C. GORHAM,
Secretary of Senate United States.

The Final Vote

IN SENATE.

1869, February 26—The report of the committee of conference, recommending the passage of the amendment as printed above was agreed to—yeas 39, nays 13, as follow:

YEAS—Messrs. Anthony, Cattell, Chandler, Cole, Conkling, Conness, Cragin, Drake, Ferry, Fessenden, Frelinghuysen, Harlan, Harris, Howard, Howe, Kellogg, McDonald, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Nye, Osborn, Patterson of New Hampshire, Ramsey, Rice, Robertson, Sherman, Stewart, Thayer, Tipton, Trumbull, Van Winkle, Wade, Warner, Welch, Willey, Williams, Wilson—39.

NAYS—Messrs. *Bayard, Buckalew, Davis, Dixon, Doolittle,* Fowler, *Hendricks, McCreery, Norton, Patterson* of Tennessee, Pool, *Vickers, Whyte*—13.

February 25—The House concurred—yeas 144, nays 44, (not voting 35,) as follow:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baker, Banks, Beaman, Beatty, Benjamin, Benton, Bingham, Blaine, Blair, Boutwell, Bowen, Boyden, Bromwell, Broomall, Buckley, Benjamin F. Butler, Roderick R. Butler, Callis, Churchill, Reader W. Clarke, Sidney Clarke, Clift, Cobb, Coburn, Cook, Corley, Cornell, Covode, Cullom, Dawes, Dickey, Dodge, Donnelly, Driggs, Eckley, Eggleston, Ela, Thomas D. Eliot, James T. Elliott, Farnsworth, Ferriss, Ferry, Fields, French, Garfield, Goss, Gove, Gravely, Griswold, Hamilton, Harding, Haughey, Heaton, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Alexander H. Jones, Judd, Julian, Kelley, Kellogg, Kelsey, Ketcham, Kitchen, Koontz, Laflin, Lash, William Lawrence, Logan, Lynch, Marvin, Maynard, McCarthy, McKee, Mercur, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newsham, Norris, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pettis, Pike, Plants, Poland, Pomeroy, Price, Prince, Raum, Robertson, Roots, Sawyer, Scofield, Shanks, Shellabarger, Smith, Spalding, Starkweather, Stevens, Stewart, Stokes, Stover, Taffe, Thomas, Trimble, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Cadwalder C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Whittemore, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Windom, Mr. Speaker Colfax—144.

NAYS—Messrs. *Archer, Axtell, Barnes, Beck, Boyer, Brooks, Burr, Cary, Chanler, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Haight,* Hawkins, *Holman, Hotchkiss, Richard D. Hubbard, Humphrey, Johnson, Thomas L. Jones, Kerr, Knott,* Loughridge, Mallory, *Marshall, McCormick, McCullough, Mungen, Niblack, Nicholson, Phelps, Pruyn, Robinson, Ross, Stone, Taber, Van Auken, Van Trump, Wood, Woodward, Young*—44.

This subject engaged a large share of attention during the third session of the Fortieth Congress. The various votes and proceedings upon it are subjoined in the order of the date of occurrence.

The House Joint Resolution, (H. R. 402.)

IN HOUSE.

1869, January 30—The House passed the amendment in these words:

JOINT RESOLUTION proposing an amendment to the Constitution of the United States.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of both houses concurring,) That the following article be proposed to the legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three-fourths of said legislatures, shall be held as part of said Constitution, namely:

ARTICLE —

SEC. 1. The right of any citizen of the United States to vote shall not be denied or abridged by the United States or any State by reason of race, color, or previous condition of slavery of any citizen or class of citizens of the United States.

SEC. 2. The Congress shall have power to enforce by appropriate legislation the provisions of this article.

The vote was yeas 150, nays 42, not voting 31, as follow:

YEAS—Messrs. Allison, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baldwin, Banks, Beaman, Beatty, Benjamin, Benton, Blackburn, Blaine, Blair, Boles, Boutwell, Bowen, Boyden, Bromwell, Broomall, Buckland, Buckley, Benjamin F. Butler, Cake, Callis, Churchill, Sidney Clarke, Clift, Cobb, Coburn, Cook, Corley, Covode, Cullom, Dawes, Delano, Deweese, Dockery, Dodge, Donnelly, Driggs, Eckley, Edwards, Eggleston, Ela, Thomas D. Eliot, James T. Elliott, Farnsworth, Ferriss, Ferry, Fields, French, Garfield, Goss, Gove, Gravely, Griswold, Halsey, Hamilton, Harding, Haughey, Heaton, Higby, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Jenckes, Alexander H. Jones, Judd, Julian, Kelley, Kellogg, Kelsey, Ketcham, Koontz, Laflin, Lash, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, Marvin, Maynard, McKee, Mercur, Miller,

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Moore, Moorhead, Morrell, Mullins, Myers, Newcomb, Newsham, Norris, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pierce, Pike, Pile, Plants, Poland, Price, Prince, Raum, Robertson, Roots, Sawyer, Scofield, Selye, Shanks, Shellabarger, Smith, Spalding, Starkweather, Stewart, Stokes, Stover, Taffe, Taylor, Thomas, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Whittemore, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Mr. Speaker Colfax —150.

NAYS—Messrs. *Archer*, *Axtell*, Baker, *Barnum*, *Beck*, Bingham, *Boyer*, *Brooks*, *Burr*, *Cary Chanler*, *Fox*, *Getz*, *Golladay*, *Grover*, *Haight*, Hawkins, *Hotchkiss*, *Humphrey*, *Johnson*, *Thomas L. Jones*, *Kerr*, *Knott*, *Marshall*, *McCormick*, *Mungen*, *Niblack*, *Nicholson*, *Phelps*, Polsley, *Pruyn*, *Randall*, *Robinson*, *Ross*, *Sitgreaves*, *Stone*, *Taber*, *Tift*, *Van Auken*, *Van Trump*, *Woodward*, *Young*—42.

NOT VOTING—Messrs. *Adams*, Ames, Anderson, *Barnes*, Roderick R. Butler, Reader W. Clarke, Cornell, Dickey, Dixon, *Eldridge*, *Glossbrenner*, Hill, *Holman*, Asahel W. Hubbard, *Richard D. Hubbard*, Ingersoll, Kitchen, Mallory, McCarthy, *McCullough*, *Morrissey*, Pettis, Pomeroy, Schenck, Stevens, Sypher, *Lawrence S. Trimble*, Vidal, Ellihu B. Washburne, *Wood*, Woodbridge—31.

The Previous Votes.

Same day—An amendment by Mr. Bingham, and an amendment to the amendment by Mr. Shellabarger pending, the House voted as follows upon them:

Mr. Bingham's amendment was to substitute the following for the first section of the said joint resolution:

No State shall make or enforce any law which shall abridge or deny to any male citizen of the United States of sound mind and twenty-one years of age or upward the exercise of the elective franchise at all elections in the State wherein he shall have actually resided for a period of one year next preceding such election, (subject to such registration laws and laws prescribing local residence as the State may enact,) except such of said citizens as shall engage in rebellion or insurrection, or who may have been, or shall be, duly convicted of treason or other infamous crimes.

Mr. Shellabarger's amendment to the amendment was to strike out the above, and insert what follows:

No State shall make or enforce any law which shall deny or abridge to any male citizen of the United States of the age of twenty-one years or over, and who is of sound mind, an equal vote at all elections in the State in which he shall have such actual residence as shall be prescribed by law, except to such as have engaged or may hereafter engage in insurrection or rebellion against the United States, and to such as shall be duly convicted of treason, felony, or other infamous crime.

Mr. Shellabarger's amendment to the amendment was disagreed to—yeas 62, nays 125, not voting 35, as follow:

YEAS—Messrs. Delos R. Ashley, Baldwin, Beaman, Beatty, Benton, Boles, Bowen, Broomall, Buckland, Cake, Clift, Cobb, Coburn, Cullom, Dawes, Delano, Eckley, Eggleston, Ela, James T. Elliott, French, Gravely, Hamilton, Hawkins, Hooper, Chester D. Hubbard, Judd, Julian, Kelley, Kelsey, George V. Lawrence, William Lawrence, Loan, Logan, Maynard, Mullins, Newsham, Norris, O'Neill, Orth, Paine, Plants, Polsley, Price, Prince, Sawyer, Schenck, Scofield, Shanks, Shellabarger, Starkweather, Stokes, Sypher, Twichell, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Whittemore, Thomas Williams—62.

NAYS—Messrs. Allison, *Archer*, Arnell, James M. Ashley, *Axtell*, Bailey, Baker, Banks, *Barnum*, *Beck*, Benjamin, Bingham, Blaine, Blair, Boutwell, Boyden, *Boyer*, Bromwell, *Brooks*, *Burr*, Benjamin F. Butler, Callis, *Cary*, *Chanler*, Churchill, Sidney Clarke, Cook, Corley, Covode, Deweese, Dockery, Dodge, Donnelly, Driggs, Edwards, *Eldridge*, Thomas D. Eliot, Ferriss, Ferry, Fields, *Fox*, Garfield, *Getz*, *Golladay*, Goss, Gove, Griswold, *Grover*, *Haight*, Halsey, Harding, Haughey, Heaton, Higby, Hopkins, *Hotchkiss*, Hulburd, *Humphrey*, Hunter, Jenckes, *Johnson*, Alexander H. Jones, *Thomas L. Jones*, *Kerr*, Ketcham, *Knott*, Koontz, Laflin, Lash, Lincoln, Loughridge, *Marshall*, Marvin, *McCormick*, *McCullough*, McKee, Mercur, Miller, Moore, Morrell, *Mungen*, Myers, Newcomb, *Niblack*, *Nicholson*, Nunn, Perham, Peters, *Phelps*, Pierce, Pike, Pile, Poland, *Pruyn*, *Randall*, Raum, Robertson, *Robinson*, Roots, *Ross*, *Sitgreaves*, Smith, Spalding, Stewart, *Stone*, Stover, *Taber*, Taffe, Taylor, Thomas, *Tift*, John Trimble, Trowbridge, Upson, Van Aernam, *Van Auken*, Burt Van Horn, *Van Trump*, Van Wyck, John T. Wilson, Stephen F. Wilson, Windom, Woodbridge, *Woodward*, *Young*—128.

NOT VOTING—Messrs. *Adams*, Ames, Anderson, *Barnes*, Blackburn, Buckley, Roderick R. Butler, Reader W. Clarke, Cornell, Dickey, Dixon, Farnsworth, *Glossbrenner*, Hill, *Holman*, Asahel W. Hubbard, *Richard D. Hubbard*, Ingersoll, Kellogg, Kitchen, Lynch, Mallory, McCarthy, Moorhead, *Morrissey*, Pettis, Pomeroy, Selye, Stevens, *Lawrence S. Trimble*, Vidal, Ellihu B. Washburne, William Williams, James F. Wilson, Wood—35.

The amendment of Mr. Bingham was then disagreed to—yeas 24, nays 160, not voting 38, as follow:

YEAS—Messrs. *Axtell*, Baker, Bingham, *Brooks*, Deweese, Dockery, *Eldridge*, Garfield, *Haight*, Heaton, *Hotchkiss*, Alexander H. Jones, *McCullough*, *Phelps*, Plants, *Robinson*, *Ross*, Spalding, Stewart, *Stone*, *Tift*, John T. Wilson, *Woodward*, *Young*—24.

NAYS—Messrs. Allison, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Banks, Beaman, Beatty, *Beck*, Benjamin, Benton, Blaine, Blair, Boles, Boutwell, Bowen, Boyden, *Boyer*, Bromwell, Broomall, Buckland, Buckley, *Burr*, Benjamin F. Butler, Cake, Callis, *Cary*, *Chanler*, Churchill, Sidney Clarke, Clift, Cobb, Coburn, Cook, Corley, Covode, Cullom, Dawes, Delano, Donnelly, Driggs, Eckley, Eggleston, Ela, Thomas D. Eliot, James T. Elliott, Ferriss, Ferry, Fields, *Fox*, French, *Getz*, *Golladay*, Goss, Gove, Gravely, Griswold, *Grover*, Halsey, Hamilton, Harding, Hawkins, Higby, Hooper, Hopkins, Chester D. Hubbard, Hulburd, *Humphrey*, Hunter, Jenckes, *Johnson*, *Thomas L. Jones*, Judd, Julian, Kelley, Kellogg, Kelsey, *Kerr*, Ketcham, Koontz, Laflin, Lash, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, *Marshall*, Marvin, Maynard, *McCormick*, McKee, Mercur, Miller, Moore, Moorhead, Morrell, Mullins, *Mungen*, Myers, Newcomb, Newsham, *Niblack*, *Nicholson*, Norris, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pierce, Pike, Poland, Polsley, Price, Prince, *Pruyn*, *Randall*, Raum, Robertson, Roots, Sawyer, Schenck, Scofield, Selye, Shanks, Shellabarger, *Sitgreaves*, Smith, Starkweather, Stokes, Stover, Sypher, *Taber*, Taffe, Taylor, Thomas, Trowbridge, Twichell, Upson, Van Aernam, *Van Auken*, Burt Van Horn, Robert T. Van Horn, *Van Trump*, Van Wyck, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Whittemore, Thomas Williams, William Williams, Stephen F. Wilson, Windom, Woodbridge—160.

NOT VOTING—Messrs. *Adams*, Ames, Anderson, *Archer*, Baldwin, *Barnes*, *Barnum*, Blackburn, Roderick R. Butler, Reader W. Clarke, Cornell, Dickey, Dixon, Dodge, Edwards, Farnsworth, *Glossbrenner*, Haughey, Hill, *Holman*, Asahel W. Hubbard, *Richard D. Hubbard*, Ingersoll, Kitchen, *Knott*, Mallory, McCarthy, *Morrissey*, Pettis, Pile, Pomeroy, Stevens, John Trimble, *Lawrence S. Trimble*, Vidal, Ellihu B. Washburne, James F. Wilson, *Wood*—38.

The resolution was then engrossed and read a third time—yeas 144, nays 45, not voting 33, and passed as above.

Proceedings upon it in the Senate

IN SENATE.

In Committee of the Whole,

February 3—Mr. Stewart moved to amend by substituting the following in place of the House resolution:

SEC. 1. The right of citizens of the United

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States to vote and hold office shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

February 8—Mr. Williams moved to amend the amendment by striking out all after the words "section 1," and inserting:

Congress shall have power to abolish or modify any restrictions upon the right to vote or hold office prescribed by the constitution or laws of any State.

Which was disagreed to.

Mr. Drake moved to substitute for the amendment of Mr. Stewart the following:

No citizen of the United States shall, on account of race, color, or previous condition of servitude be, by the United States or by any State, denied the right to vote or hold office.

Which was disagreed to.

Mr. Howard moved to substitute for the amendment of Mr. Stewart the following:

Citizens of the United States of African descent shall have the same right to vote and hold office in States and Territories as other citizens, electors of the most numerous branch of their respective legislatures.

Which was disagreed to—yeas 16, nays 35, as follow:

YEAS—Messsrs. Anthony, Chandler, Cole, Corbett, Cragin, Ferry, Harlan, Howard, Norton, Patterson of New Hampshire, Sumner, Thayer, Tipton, Wade, Welch, Williams—16.

NAYS—Messrs. Abbott, *Bayard*, *Buckalew*, Cameron, Cattell, *Doolittle*, Drake, Edmunds, Frelinghuysen, Harris, *Hendricks*, Howe, Kellogg, *McCreery*, McDonald, Morgan, Morrill of Maine, Morrill of Vermont, Nye, *Patterson* of Tennessee, Ramsey, Rice, *Saulsbury*, Sawyer, Sherman, Spencer, Stewart, Trumbull, Van Winkle, *Vickers*, Warner, *Whyte*, Willey, Wilson, Yates—35.

Mr. Warner moved to substitute for the amendment of Mr. Stewart the following:

The right of citizens of the United States to hold office shall not be denied or abridged by the United States or any State on account of property, race, color, or previous condition of servitude; and every male citizen of the United States of the age of twenty-years or over, and who is of sound mind, shall have an equal vote at all elections in the State in which he shall have actually resided for a period of one year next preceding such election, except such as may hereafter engage in insurrection or rebellion against the United States, and such as shall be duly convicted of treason, felony, or other infamous crime.

Which was disagreed to.

February 9—Mr. Wilson moved to amend by substituting the following:

There shall be no discrimination in any State among the citizens of the United States in the exercise of the elective franchise in any election therein, or in the qualifications for office in any State, on account of race, color, nativity, property, education, or religious belief.

Which was disagreed to—yeas 19, nays 24, as follow:

YEAS—Messrs. Cattell, Conness, Grimes, Harlan, Harris, Howe, McDonald, Morton, Ramsey, Ross, Sawyer, Sherman, Sumner, Van Winkle, Wade, Welch, Williams, Wilson, Welker—19.

NAYS—Messrs. Abbott, Anthony, *Bayard*, Cole, Conkling, Corbett, *Davis*, *Dixon*, Fessenden, Fowler, Frelinghuysen, Howard, Morgan, Morrill of Vermont, *Norton*, Nye, *Patterson* of Tennessee, Rice, Robertson, Spencer, Stewart, Trumbull, *Vickers*, Willey—24.

Mr. Sawyer moved to amend by substituting the following:

The right to vote and hold office in the United States and the several States and Territories shall belong to all male citizens of the United States who are twenty-one years old, and who have not been, and shall not be, duly convicted of treason or other infamous crime: *Provided*, That nothing herein contained shall deprive the several States of the right to make such registration laws as shall be deemed necessary to guard the purity of elections, and to fix the terms of residence which shall precede the exercise of the right to vote: *And provided*, That the United States and the several States shall have the right to fix the age and other qualifications for office under their respective jurisdictions, which said registration laws, terms of residence, age, and other qualifications shall be uniformly applicable to all male citizens of the United States.

Which was disagreed to.

Mr. Henderson moved to add to Mr. Stewart's amendment the following:

Nor shall such right to vote, after the first day of January, 1872, be denied or abridged for offences now committed, unless the party to be affected shall have been duly convicted thereof.

Which was disagreed to.

Mr. Fowler moved to amend by substituting the following:

All the male citizens of the United States, residents of the several States now or hereafter comprehended in the Union, of the age of twenty-one years and upward, shall be entitled to an equal vote in all elections in the State wherein they shall reside, the period of such residence as a qualification for voting to be decided by each State, except such citizens as shall engage in rebellion or insurrection, or shall be duly convicted of treason or other infamous crime.

Which was disagreed to—yeas 9, nays 35, as follow:

YEAS—Messrs. *Bayard*, Cragin, *Dixon*, Fowler, *Patterson* of Tennessee, Ross, Sherman, Van Winkle, Wilson—9.

NAYS—Messrs. Abbott, Anthony, Cattell, Cole, Conkling, Conness, Corbett, *Davis*, Drake, Ferry, Frelinghuysen, Harlan, Harris, Howard, McDonald, Morgan, Morrill of Vermont, Morton, Nye, Patterson of New Hampshire, Pool, Ramsey, Rice, Robertson, Sawyer, Spencer, Stewart, Tipton, Trumbull, *Vickers*, Wade, Welch, Willey, Williams, Yates—35.

On motion of Mr. Conness, the word "or" after the words "United States," where it occurs the second time in the pending amendment, was made to read "nor."

Mr. Vickers moved to add to Mr. Stewart's amendment the following:

Nor shall the right to vote be denied or abridged because of participation in the recent rebellion.

Which was disagreed to—yeas 21, nays 32, as follow:

YEAS—Messrs. *Bayard*, *Buckalew*, *Davis*, *Dixon*, *Doolittle*, Ferry, Fowler, Grimes, Harlan, *Hendricks*, *McCreery*, *Norton*, *Patterson* of Tennessee, Pool, Ramsey, Robertson, Sawyer, Trumbull, Van Winkle, *Vickers*, Wilson—21.

NAYS—Messrs. Abbott, Anthony, Cattell, Cole, Conkling, Conness, Corbett, Cragin, Drake, Fessenden, Frelinghuysen, Harris, Howard, Howe, Morgan, Morrill of Vermont, Morton, Nye, Patterson of New Hamp-

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shire, Rice, Ross, Sherman, Spencer, Stewart, Sumner, Thayer, Tipton, Wade, Welch, Willey, Williams, Yates—32.

Mr. Bayard moved to amend Mr. Stewart's amendment so as to make it read:

The right of citizens of the United States to vote for electors of President and Vice President, and members of the House of Representatives of the United States, and hold office under the United States, shall not be denied or abridged by the United States nor by any State, on account of race, color, or previous condition of servitude.

Which was disagreed to—yeas 12, nays 42, as follow:

YEAS—Messrs. Anthony, *Bayard*, *Buckalew*, *Davis*, *Dixon*, *Doolittle*, Grimes, *Hendricks*, *McCreery*, *Norton*, *Saulsbury*, *Van Winkle*—12.

NAYS—Messrs. Abbott, Cattell, Cole, Conkling, Conness, Corbett, Cragin, Drake, Ferry, Frelinghuysen, Harlan, Harris, Howard, Howe, McDonald, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Nye, Patterson of New Hampshire, Pool, Ramsey, Rice, Robertson, Ross, Sawyer, Sherman, Spencer, Stewart, Sumner, Thayer, Tipton, Trumbull, *Vickers*, Wade, Warner, Welch, Willey, Williams, Wilson, Yates—42.

Mr. Wilson moved to amend Mr. Stewart's amendment by substituting for it the following:

No discrimination shall be made in any State among the citizens of the United States in the exercise of the elective franchise, or in the right to hold office in any State, on account of race, color, nativity, property, education, or creed.

Which was agreed to—yeas 31, nays 27, as follow:

YEAS—Messrs. Abbott, Cameron, Cattell, Conness, Cragin, Ferry, Grimes, Harlan, Harris, *Hendricks*, Howe, McDonald, Morton, Osborn, Pool, Rice, Robertson, Ross, Sawyer, Sherman, Sumner, Thayer, Tipton, Van Winkle, Wade, Warner, Welch, Willey, Williams, Wilson, Yates—31.

NAYS—Messrs. Anthony, *Buckalew*, Chandler, Cole, Conkling, Corbett, *Dixon*, *Doolittle*, Drake, Edmunds, Fessenden, Frelinghuysen, *McCreery*, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Patterson of New Hampshire, *Patterson* of Tennessee, Ramsey, *Saulsbury*, Spencer, Sprague, Stewart, Trumbull, *Vickers*, *Whyte*—27.

The amendment as amended was then agreed to.

Mr. Corbett moved to add to the first section the words:

But Chinamen not born in the United States, and Indians not taxed, shall not be deemed or made citizens.

Which was disagreed to.

Mr. Buckalew moved to add the following new section:

SEC. 3. That the foregoing amendment shall be submitted for ratification to the legislatures of the several States the most numerous branches of which shall be chosen next after the passage of this resolution.

Which was disagreed to—yeas 13, nays 43, as follow:

YEAS—Messrs. *Bayard*, *Buckalew*, *Davis*, *Dixon*, *Doolittle*, Fowler, *Hendricks*, *McCreery*, *Patterson* of Tennessee, *Saulsbury*, Van Winkle, *Vickers*, *Whyte*—13.

NAYS—Messrs. Abbott, Cameron, Cattell, Chandler, Cole, Conkling, Conness, Corbett, Cragin, Drake, Edmunds, Ferry, Fessenden, Frelinghuysen, Harlan, Harris, Howe, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Nye, Patterson of New Hampshire, Pool, Ramsey, Rice, Robertson, Ross, Sawyer, Sherman, Spencer, Stewart, Sumner, Thayer, Tipton, Trumbull, Wade, Warner, Welch, Willey, Williams, Wilson, Yates—43.

Mr. Dixon moved to amend so as to refer the amendments to "conventions" in the States instead of the legislatures; which was disagreed to—yeas 11, nays 45, as follow:

YEAS—Messrs. *Bayard*, *Buckalew*, *Davis*, *Dixon*, *Doolittle*, *Hendricks*, *McCreery*, *Patterson* of Tennessee, *Saulsbury*, *Vickers*, *Whyte*—11.

NAYS—Messrs. Abbott, Cameron, Cattell, Chandler, Cole, Conkling, Conness, Corbett, Cragin, Drake, Edmunds, Ferry, Fessenden, Frelinghuysen, Harlan, Harris, Howe, Kellogg, McDonald, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Patterson of New Hampshire, Pool, Ramsey, Rice, Robertson, Ross, Sawyer, Sherman, Spencer, Stewart, Sumner, Thayer, Tipton, Trumbull, Van Winkle, Wade, Warner, Welch, Willey, Williams, Wilson, Yates—45.

Mr. Morton moved to amend by adding the following as article XVI:

The second clause, first section, second article of the Constitution of the United States shall be amended to read as follows: Each State shall appoint, by a vote of the people thereof qualified to vote for representatives in Congress, a number of electors equal to the whole number of senators and representatives to which the State may be entitled in the Congress; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector; and the Congress shall have power to prescribe the manner in which such electors shall be chosen by the people.

Which was disagreed to—yeas 27, nays 29, as follow:

YEAS—Messrs. *Buckalew*, Cattell, *Dixon*, *Doolittle*, Ferry, Fessenden, Fowler, Grimes, *Hendricks*, Kellogg, McDonald, Morton, Patterson of New Hampshire, Pool, Rice, Ross, Sawyer, Spencer, Van Winkle, *Vickers*, Wade, Warner, Welch, *Whyte*, Willey, Williams, Wilson—27.

NAYS—Messrs. Abbott, Cameron, Chandler, Cole, Conkling, Conness, Corbett, Cragin, *Davis*, Drake, Frelinghuysen, Harlan, Harris, Howe, *McCreery*, Morgan, Morrill of Maine, Morrill of Vermont, Nye, *Patterson* of Tennessee, Ramsey, Robertson, Sherman, Sprague, Stewart, Sumner, Tipton, Trumbull, Yates—29.

Mr. Sumner then moved to strike out all after the enacting clause, and insert as follows:

That the right to vote, to be voted for, and to hold office, shall not be denied or abridged anywhere in the United States under any pretence of race or color; and all provisions in any State constitutions, or in any laws, State, territorial, or municipal, inconsistent herewith, are hereby declared null and void.

SEC. 2. *And be it further enacted*, That any person who, under any pretence of race or color, wilfully hinders or attempts to hinder any citizen of the United States from being registered, or from voting, or from being voted for, or from holding office, or who attempts by menaces to deter any such citizen from the exercise or enjoyment of the rights of citizenship above mentioned, shall be punished by a fine not less than one hundred nor more than three thousand dollars, or by imprisonment in the common jail for not less than thirty days nor more than one year.

SEC. 3. *And be it further enacted*, That every person legally engaged in preparing a register of voters, or in holding or conducting an election, who wilfully refuses to register the name or to receive, count, return, or otherwise give the proper legal effect to the vote of any citizen under any pretence of race or color, shall be punished by a fine not less than five hundred nor more than four thousand dollars, or by imprison-

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ment in the common jail for not less than three calendar months nor more than two years.

SEC. 4. *And be it further enacted*, That the district courts of the United States shall have exclusive jurisdiction of all offences against this act; and the district attorneys, marshals, and deputy marshals, the commissioners appointed by the circuit and territorial courts of the United States, with powers of arresting, imprisoning, or bailing offenders, and every other officer specially empowered by the President of the United States, shall be, and they are hereby, required, at the expense of the United States, to institute proceedings against any person who violates this act, and cause him to be arrested and imprisoned or bailed, as the case may be, for trial before such court as by this act has cognizance of the offence.

SEC. 5. *And be it further enacted*, That every citizen unlawfully deprived of any of the rights of citizenship secured by this act under any pretence of race or color, may maintain a suit against any person so depriving him, and recover damages in the district court of the United States for the district in which such person may be found.

Which was disagreed to—yeas 9, nays 46, as follow:

YEAS—Messrs. Edmunds, McDonald, Nye, Ross, Sumner, Thayer, Wade, Wilson, Yates—9.

NAYS—Messrs. Abbott, Anthony, *Bayard*, Cameron, Chandler, Cole, Conkling, Conness, Corbett, Cragin, *Davis*, *Dixon*, *Doolittle*, Drake, Ferry, Fessenden, Fowler, Frelinghuysen, Grimes, Harlan, Harris, *Hendricks*, Howe, *McCreery*, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Patterson of New Hampshire, Pool, Ramsey, Rice, Robertson, *Saulsbury*, Sawyer, Sherman, Spencer, Sprague, Stewart, Trumbull, Van Winkle, *Vickers*, Warner, *Whyte*, Willey, Williams—46.

The resolution was than reported to the Senate, and the question being on concurring in the amendment made in Committee of the Whole,

Mr. Warner moved to substitute for the article adopted in committee the following:

SEC. 1. No State shall make or enforce any law which shall abridge or deny to any male citizen of the United States of sound mind and over twenty-one years of age the equal exercise of the elective franchise at all elections in the State wherein he shall have such actual residence as shall be prescribed by law, except to such of said citizens as have engaged or shall hereafter engage in rebellion or insurrection, or who may have been, or shall be, duly convicted of treason or other crime of the grade of felony at common law, nor shall the right to hold office be denied or abridged on account of race, color, nativity, property, religious belief, or previous condition of servitude.

SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

Which was disagreed to—yeas 5, nays 47, as follow:

YEAS—Messrs. Conkling, Kellogg, McDonald, Spencer, Warner—5.

NAYS—Messrs. Abbott, Anthony, *Buckalew*, Cameron, Cattell, Chandler, Cole, Conness, Corbett, Cragin, *Davis*, *Dixon*, *Doolittle*, Drake, Ferry, Fessenden, Fowler, Frelinghuysen, Harlan, Harris, *Hendricks*, Howe, *McCreery*, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Osborn, *Patterson* of Tennessee, Ramsey, Rice, Robertson, Ross, *Saulsbury*, Sawyer, Sherman, Sprague, Stewart, Thayer, Trumbull, Van Winkle, *Vickers*, *Whyte*, Willey, Williams, Wilson, Yates—47.

Mr. Morton then offered the amendment offered by him in Committee of the Whole, proposing an additional article as Article XVI, and rejected, as follows:

The second clause, first section, second article of the Constitution of the United States shall be amended to read as follows: Each State shall appoint, by a vote of the people thereof qualified to vote for representatives in Congress, a number of electors equal to the whole number of senators and representatives to which the State may be entitled in the Congress; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector, and the Congress shall have power to prescribe the manner in which such electors shall be chosen by the people.

Which was agreed to—yeas 37, nays 19, as follow:

YEAS—Messrs. *Buckalew*, Cameron, Cattell, Cole, Conkling, Conness, Corbett, *Dixon*, *Doolittle*, Ferry, Fessenden, Fowler, Grimes, Harlan, Howe, Kellogg, McDonald, Morrill of Maine, Morton, Osborn, Patterson of New Hampshire, Pool, Ramsey, Rice, Robertson, Ross, Sawyer, Spencer, Thayer, *Vickers*, Wade, Warner, Welch, *Whyte*, Willey, Williams, Wilson—37.

NAYS—Messrs. Abbott, Chandler, Cragin, *Davis*, Drake, Edmunds, Frelinghuysen, Harris, *Hendricks*, *McCreery*, Morgan, Morrill of Vermont, *Patterson* of Tennessee, *Saulsbury*, Sherman, Stewart, Trumbull, Van Winkle, Yates—19.

Mr. Wilson moved to reconsider this vote; which was disagreed to—yeas 26, nays 28, as follow:

YEAS—Messrs. Cameron, Cattell, Chandler, Cole, Conness, Cragin, Drake, Edmunds, Ferry, Fessenden, Frelinghuysen, Harris, Howe, Kellogg, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Ramsey, Sherman, Stewart, Thayer, *Whyte*, Willey, Wilson, Yates—26.

NAYS—Messrs. Abbott, *Buckalew*, Conkling, Corbett, *Davis*, *Dixon*, *Doolittle*, Fowler, Grimes, Harlan, *Hendricks*, McDonald, Morton, Osborn, Patterson of New Hampshire, *Patterson* of Tennessee, Pool, Rice, Robertson, Ross, Sawyer, Spencer, Sprague, Van Winkle, *Vickers*, Wade, Warner, Williams—28.

The resolution as amended—being the substitute offered by Mr. Wilson and the additional article offered by Mr. Morton—was then passed—yeas 40, nays 16, as follow:

YEAS—Messrs. Abbott, Cameron, Cattell, Chandler, Cole, Conkling, Conness, Cragin, Drake, Ferry, Harlan, Harris, Howe, Kellogg, McDonald, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Nye, Osborn, Patterson of New Hampshire, Pool, Ramsey, Rice, Robertson, Ross, Sawyer, Sherman, Spencer, Stewart, Thayer, Van Winkle, Wade, Warner, Welch, Willey, Williams, Wilson, Yates—40.

NAYS—Messrs. Anthony, *Bayard*, Corbett, *Davis*, *Dixon*, *Doolittle*, Edmunds, Fowler, Grimes, *Hendricks*, *McCreery*, *Patterson* of Tennessee, *Saulsbury*, Sprague, *Vickers*, *Whyte*—16.

IN HOUSE.

February 15—The House—having suspended the rules, yeas 126, nays 31, not voting 65—disagreed to the amendments made by the Senate. The first question was on the amendment substituting the following for the first section:

"No discrimination shall be made in any State among citizens of the United States in the exercise of the elective franchise or in the right to hold office in any State on account of race, color, nativity, property, education, or creed."

Yeas 37, nays 133, (not voting 52,) as follow:

YEAS—Messrs. *Axtell*, Baker, Beatty, Bingham, Buckland, Sidney Clarke, Coburn, Cullom, Deweese, Dickey, Dockery, Donnelly, Eggleston, Haughey, Heaton, Asahel W. Hubbard, Ingersoll, Kitchen, George V. Lawrence, William Lawrence, Nunn, Orth, Pile, Plants, Poland, Scofield, Shanks, Spalding, Stover, Thomas, John

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Trimble, Robert T. Van Horn, Ward, Welker, James F. Wilson, John T. Wilson, Stephen F. Wilson—37.

NAYS—Messrs. Anderson, Delos R. Ashley, James M. Ashley, Banks, *Barnum*, Beaman, *Beck*, Benjamin, Benton, Blaine, Blair, Boutwell, Bowen, Boyden, *Boyer*, Bromwell, *Brooks*, Buckley, *Burr*, Benjamin F. Butler, Roderick R. Butler, Callis, *Cary*, *Chanler*, Churchill, Reader W. Clarke, Clift, Cobb, Corley, Cornell, Covode, Dawes, Driggs, Edwards, *Eldridge*, Thomas D. Eliot, James T. Elliott, Farnsworth, Ferriss, Ferry, Fields, *Fox*, *Glossbrenner*, Gove, Gravely, *Grover*, *Haight*, Hamilton, Hawkins, Higby, *Holman*, Hopkins, *Hotchkiss*, Chester D. Hubbard, Hulburd, *Humphrey*, Hunter, Jenckes, *Johnson*, Alexander H. Jones, *Thomas L. Jones*, Julian, Kelley, Kellogg, Kelsey, *Kerr*, Ketcham, *Knott*, Koontz, Laflin, Lash, Loan, Loughridge, Lynch, Mallory, *Marshall*, Marvin, McCarthy, *McCormick*, McKee, Miller, Moore, Moorhead, Morrell, *Mungen*, Myers, Newcomb, Newsham, *Niblack*, *Nicholson*, Norris, O'Neill, Paine, Perham, Peters, *Phelps*, Pierce, Polsley, Pomeroy, Price, Prince, *Pruyn*, *Randall*, Raum, Robertson, *Robinson*, Roots, *Ross*, Sawyer, Shellabarger, *Sitgreaves*, Smith, Starkweather, Stewart, Stokes, *Stone*, *Taber*, Taffe, Trowbridge, Twichell, Upson, Burt Van Horn, *Van Trump*, Van Wyck, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Whittemore, William Williams, Windom, *Wood*, *Woodward*, *Young*—133.

The other amendments were then disagreed to without a division.

IN SENATE.

February 17—Mr. Stewart moved that the Senate recede from its amendments disagreed to by the House; which was agreed to—yeas 33, nays 24, as follow:

YEAS—Messrs. Anthony, Cameron, Cattell, Chandler, Cole, Conkling, Corbett, Cragin, Drake, Edmunds, Ferry, Fessenden, Frelinghuysen, Harris, Howard, Kellogg, McDonald, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Nye, Patterson of New Hampshire, Pomeroy, Robertson, Stewart, Thayer, Trumbull, Van Winkle, Welch, Willey, Williams, Yates—33.

NAYS—Messrs. Abbott, *Bayard*, *Buckalew*, *Davis*, *Dixon*, *Doolittle*, Fowler, Harlan, *Hendricks*, *McCreery*, *Norton*, Osborn, *Patterson* of Tennessee, Pool, Rice, Ross, *Saulsbury*, Sherman, Spencer, *Vickers*, Wade, Warner, *Whyte*, Wilson—24.

Mr. Wilson moved to lay the resolution on the table; which was disagreed to—yeas 28, nays 30, as follow:

YEAS—Messrs. Abbott, Anthony, *Bayard*, *Buckalew*, *Davis*, *Dixon*, *Doolittle*, Edmunds, Fowler, Grimes, *Hendricks*, Howe, *McCreery*, *Norton*, *Patterson* of Tennessee, Pool, Ross, *Saulsbury*, Sawyer, Spencer, Sumner, Trumbull, Van Winkle, *Vickers*, Warner, *Whyte*, Wilson, Yates—28.

NAYS—Messrs. Cameron, Cattell, Chandler, Cole, Conkling, Cragin, Drake, Ferry, Fessenden, Frelinghuysen, Harlan, Harris, Howard, Kellogg, McDonald, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Osborn, Patterson of New Hampshire, Ramsey, Rice, Robertson, Sherman, Stewart, Thayer, Wade, Willey, Williams—30.

Mr. Morton moved to reconsider the vote of the Senate receding from its amendments; which was disagreed to—yeas 24, nays 32, as follow:

YEAS—Messrs. Abbott, Cragin, Drake, Grimes, Harlan, Harris, McDonald, Morton, Osborn, Pomeroy, Pool, Rice, Robertson, Ross, Sawyer, Sherman, Spencer, Sumner, Thayer, Van Winkle, Wade, Warner, Welch, Wilson—24.

NAYS—Messrs. Anthony, *Buckalew*, Cameron, Cattell, Chandler, Cole, Conkling, *Davis*, *Doolittle*, Edmunds, Ferry, Fessenden, Fowler, Frelinghuysen, *Hendricks*, Howard, Kellogg, *McCreery*, Morgan, Morrill of Vermont, *Norton*, Nye, Patterson of New Hampshire, *Patterson* of Tennessee, Ramsey, *Saulsbury*, Stewart, Trumbull, *Vickers*, *Whyte*, Williams, Yates—32.

On the question, shall the resolution (as originally passed by the House) pass, it was determined in the negative, (two-thirds not having voted in the affirmative)—yeas 31, nays 27, as follow:

YEAS—Messrs. Anthony, Cameron, Cattell, Chandler, Cole, Conkling, Cragin, Drake, Ferry, Fessenden, Frelinghuysen, Harlan, Harris, Howard, Kellogg, Morgan, Morrill of Vermont, Morton, Nye, Patterson of New Hampshire, Pool, Ramsey, Rice, Robertson, Sherman, Stewart, Trumbull, Van Winkle, Wade, Williams, Yates—31.

NAYS—Messrs. Abbott, *Bayard*, *Buckalew*, *Davis*, *Dixon*, *Doolittle*, Edmunds, Fowler, *Grimes*, *Hendricks*, *McCreery*, McDonald, *Norton*, Osborn, *Patterson* of Tennessee, Pomeroy, Ross, *Saulsbury*, Sawyer, Spencer, Sumner, Thayer, *Vickers*, Warner, Welch, *Whyte*, Wilson—27.

And the House proposition fell.

The Senate Joint Resolution. (S. 8.)

IN SENATE.

On the same day (February 17), and immediately after the failure of the House proposition, the Senate resolved itself into Committee of the Whole on a joint resolution reported January 15, 1869, from the Committee on the Judiciary, and amended by the Senate without division, January 28, so as to make it read as follows:

JOINT RESOLUTION proposing an amendment to the Constitution of the United States.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of both houses concurring,) That the following article be proposed to the legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three-fourths of said legislatures, shall be valid as part of the Constitution, namely:

ARTICLE XV.

The right of citizens of the United States to vote and hold office shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

The Congress shall have power to enforce this article by appropriate legislation.

The question being on concurring in the amendment made in Committee of the Whole,

Mr. Drake moved to amend it by striking out all after the words "section 1," and inserting the following:

No citizen of the United States shall, on account of race, color, or previous condition of servitude be, by the United States or by any State, denied the right to vote or hold office.

Which was disagreed to.

Mr. Bayard moved to amend the amendment by striking out the words "vote and," so that it would read:

The right of citizens of the United States to hold office shall not be denied or abridged by the United States or any State, &c.

Which was disagreed to—yeas 6, nays 29, as follows:

YEAS—Messrs. *Bayard*, *Buckalew*, *Davis*, *Hendricks*, *Vickers*, *Whyte*—6.

NAYS—Messrs. Abbott, Cattell, Cole, Drake, Edmunds, Ferry, Fessenden, Frelinghuysen, Howard, Kellogg, McDonald, Morton, Nye, Osborn, Patterson of New Hampshire, Pomeroy, Ramsey, Rice, Ross, Sawyer, Spencer, Stewart, Trumbull, Van Winkle, Wade, Warner, Willey, Wilson, Yates—29.

Mr. Howard moved to amend the amendment made in Committee of the Whole by striking out the words "the United States or by."

Which was disagreed to—yeas 18, nays 22, as follow:

YEAS—Messrs. *Buckalew*, Conkling, Cragin, *Davis*, *Dixon*, *Doolittle*, Ferry, Fowler, *Hendricks*, Howard, *Norton*, Patterson of New Hampshire, Robertson, *Saulsbury*, Trumbull, Van Winkle, *Vickers*, *Whyte*—18.

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NAYS—Messrs. Abbott, Cattell, Cole, Drake, Edmunds, Fessenden, Frelinghuysen, Harris, Kellogg, McDonald, Morrill of Vermont, Morton, Pomeroy, Ramsey, Rice, Sawyer, Stewart, Wade, Warner, Willey, Wilson, Yates—22.

Mr. Doolittle moved to add to the amendment made in Committee of the Whole the words:

Nor shall any citizen be so denied by reason of any alleged crime unless duly convicted thereof according to law.

Which was disagreed to—yeas 13, nays 30, as follow:

YEAS—Messrs. *Buckalew*, *Davis*, *Dixon*, *Doolittle*, Ferry, Fowler, *Hendricks*, *McCreery*, *Norton*, *Saulsbury*, *Vickers*, *Whyte*, Wilson—13.

NAYS—Messrs. Abbott, Cattell, Cole, Conkling, Cragin, Drake, Edmunds, Fessenden, Frelinghuysen, Harris, Howard, McDonald, Morrill of Vermont, Morton, Nye, Patterson of New Hampshire, Pomeroy, Ramsey, Rice, Robertson, Sawyer, Spencer, Stewart, Trumbull, Wade, Warner, Welch, Willey, Williams, Yates—30.

Mr. Fowler moved to amend the amendment of the Committee of the Whole by striking out the words "on account of race, color, or previous condition of servitude."

Which was disagreed to—yeas 5, nays 30. The yeas were Messrs. *Doolittle*, Fowler, *Hendricks*, *Vickers*, *Whyte*.

The amendment made in Committee of the Whole was then concurred in, without a division.

Mr. Howard moved to amend the resolution by striking out all after the word "that," where it first occurs, and substituting the following:

The following article be proposed to the legislatures of the several States as an amendment to the Constitution of the United States:

ARTICLE XV.

Citizens of the United States of African descent shall have the same right to vote and hold office in States and Territories as other electors.

Mr. Davis moved to amend so as to provide for the submission of this to legislatures "hereafter to be chosen;" which was disagreed to.

Mr. Howard's amendment was then disagreed to—yeas 22, nays 28, as follow:

YEAS—Messrs. Abbott, Cole, Conkling, Conness, Drake, Ferry, Harlan, Harris, Howard, Nye, Osborn, Patterson of New Hampshire, Pomeroy, Ramsey, Robertson, Spencer, Thayer, Tipton, Warner, Welch, Willey, Williams—22.

NAYS—Messrs. *Bayard*, *Buckalew*, Cattell, Cragin, *Davis*, *Dixon*, Edmunds, Fessenden, Fowler, Frelinghuysen, *Hendricks*, Howe, *McCreery*, McDonald, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Rice, Ross, *Saulsbury*, Stewart, Trumbull, Van Winkle, *Vickers*, *Whyte*, Wilson, Yates—28.

Mr. Hendricks moved to amend by adding to the resolution the following words:

The foregoing amendment shall be submitted for ratification to the legislatures of the several States the most numerous branches of which shall be chosen next after the passage of this resolution.

Which was disagreed to—yeas 12, nays 40, as follow:

YEAS—Messrs. *Bayard*, *Buckalew*, *Davis*, *Dixon*, Fowler, *Hendricks*, *McCreery*, *Norton*, *Patterson* of Tennessee, *Saulsbury*, *Vickers*, *Whyte*—12.

NAYS—Messrs. Abbott, Cameron, Cole, Conkling, Cragin, Drake, Edmunds, Ferry, Frelinghuysen, Harlan, Harris, Howard, Howe, Kellogg, McDonald, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Nye, Osborn, Patterson of New Hampshire, Pomeroy, Pool, Ramsey, Rice, Robertson, Ross, Sawyer, Spencer, Stewart, Thayer, Tipton, Van Winkle, Wade, Warner, Welch, Willey, Williams, Wilson—40.

Mr. Dixon moved to amend by submitting the article to *conventions* instead of *legislatures*; which was disagreed to—yeas 10, nays 39. [The affirmative vote was the same as above, except that Messrs. Fowler and *McCreery* did not vote. The negative also the same, except that Messrs. Sawyer and Wade did not vote, and Mr. Yates did.]

Mr. Davis moved a reconsideration of the vote disagreeing to the last amendment offered by Mr. Howard, which was disagreed to—yeas 16, nays 29, as follow:

YEAS—Messrs. Chandler, Cole, Conkling, Harlan, Howard, Nye, Osborn, Patterson of New Hampshire, Pomeroy, Ramsey, Robertson, Sawyer, Tipton, Warner, Welch, Williams—16.

NAYS—Messrs. Abbott, *Buckalew*, Cragin, *Davis*, Drake, Edmunds, Ferry, Frelinghuysen, Harris, *Hendricks*, Kellogg, *McCreery*, McDonald, Morgan, Morrill of Vermont, Morton, *Patterson* of Tennessee, Pool, Rice, Ross, *Saulsbury*, Spencer, Stewart, Thayer, *Vickers*, Wade, *Whyte*, Wilson, Yates—29.

The resolution was then engrossed and read a third time, and passed—yeas 35, nays 11, as follow:

YEAS—Messrs. Abbott, Chandler, Cole, Conkling, Cragin, Drake, Edmunds, Ferry, Frelinghuysen, Harlan, Harris, Kellogg, McDonald, Morgan, Morrill of Vermont, Morton, Osborn, Patterson of New Hampshire, Pomeroy, Pool, Ramsey, Rice, Robertson, Ross, Sawyer, Spencer, Stewart, Thayer, Van Winkle, Wade, Warner, Welch, Willey, Williams, Wilson—35.

NAYS—Messrs. *Bayard*, *Buckalew*, *Davis*, Fowler, *Hendricks*, *McCreery*, *Norton*, *Patterson* of Tennessee, *Saulsbury*, *Vickers*, *Whyte*—11.

IN HOUSE.

February 20—On motion of Mr. Boutwell, the rules were suspended, (yeas 139, nays 35, not voting 48,) and the joint resolution of the Senate was taken up.

Messrs. Logan, Shellabarger, and Bingham submitted amendments.

Mr. Boutwell moved to suspend the rules, and that the House proceed to vote on the pending amendments and the joint resolution without dilatory motions; which was agreed to—yeas 144, nays 37, not voting 41.

Mr. Logan's amendment—to strike from the first section the words "and hold office"—was disagreed to—yeas 70, nays 95, (not voting 57,) as follow:

YEAS—Messrs. *Archer*, Delos R. Ashley, *Axtell*, *Barnum*, *Beck*, Benton, Bingham, *Boyer*, *Burr*, *Cary*, *Chanler*, Churchill, Coburn, Dockery, Eckley, *Eldridge*, Fields, *Fox*, Garfield, *Getz*, *Golladay*, *Grover*, *Haight*, Halsey, Higby, *Holman*, *Hotchkiss*, Chester D. Hubbard, *Humphrey*, Hunter, *Johnson*, *Thomas L. Jones*, Judd, Ketcham, *Knott*, George V. Lawrence, Logan, Marvin, *McCormick*, *McCullough*, Mercur, Miller, Moore, Moorhead, Morrell, *Mungen*, Myers, *Niblack*, *Nicholson*, O'Neill, *Phelps*, Pile, *Pruyn*, *Randall*, Raum, Robertson, Schenck, Scofield, Selye, Smith, Spalding, Starkweather, Stevens, *Stone*, *Taber*, *Tift*, *Van Trump*, William Williams, Woodbridge, *Woodward*—70.

NAYS—Messrs. Allison, Ames, James M. Ashley, Baker, Banks, Beaman, Beatty, Benjamin, Blaine, Blair, Boutwell, Bowen, Bromwell, Broomall, Buckland, Buckley, Roderick R. Butler, Cake, Callis, Reader W. Clarke, Sidney Clarke, Clift, Cobb, Cook, Corley, Cullom, Dawes, Dickey, Dodge, Donnelly, Driggs, Eggleston, Ela, Thomas D. Eliot, James T. Elliott, Ferriss, French, Goss, Gove, Gravely, Hamilton, Haughey, Heaton, Hooper, Hopkins, Hulburd, Jenckes, Alexander H. Jones, Julian, Kelley, Kellogg, Kelsey, Kitchen, Koontz, Laflin, Lash, William Lawrence, Loughridge, Lynch, Maynard, McKee, Newcomb, Nunn, Orth, Paine, Perham, Peters, Pettis, Pike, Plants, Poland, Pomeroy, Prince, Roots, Sawyer, Shanks, Shellabarger, Stokes, Stover, Sypher, Taffe, Thomas, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Ward, William B. Washburn, Welker, Whitte-

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more, Thomas Williams, Stephen F. Wilson, Windom —95.

Mr. Bingham's amendment, to strike out the words "by the United States or," and insert the words "nativity, property, creed," so that it will read as follows:

The right of citizens of the United States to vote and hold office shall not be denied or abridged by any State on account of race, color, nativity, property, creed, or previous condition of servitude,

Was agreed to—yeas 92, nays 71, (not voting 59,) as follow:

YEAS—Messrs. Allison, *Archer*, James M. Ashley, *Axtell*, Baker, *Barnum*, Beatty, *Beck*, Benton, Bingham, Blaine, *Boyer*, Buckland, *Burr*, Reader W. Clarke, Cobb, Coburn, Cullom, Dockery, Dodge, Donnelly, Driggs, Eckley, Eggleston, Ela, *Eldridge*, Farnsworth, Ferry, *Fox*, Garfield, *Getz*, Gravely, Griswold, *Haight*, Hamilton, Haughey, Heaton, *Holman*, Hopkins, *Hotchkiss*, Chester D. Hubbard, *Humphrey*, Hunter, Alexander H. Jones, Judd, Julian, Kitchen, *Knott*, Koontz, George V. Lawrence, William Lawrence, Marvin, *McCormick*, *McCullough*, Mercur, Moore, Moorhead, *Mungen*, Myers, Newcomb, *Niblack*, *Nicholson*, Orth, Paine, Pettis, Pile, Plants, *Randall*, Raum, *Robinson*, *Ross*, Schenck, Scofield, Shanks, Smith, Spalding, Starkweather, Stevens, *Stone*, Stover, Taylor, Upson, Robert T. Van Horn, Cadwalader C. Washburn, William B. Washburn, Welker, Whittemore, William Williams, James F. Wilson, John T. Wilson, Woodbridge, *Woodward*—92.

NAYS—Messrs. Delos R. Ashley, Banks, Beaman, Blair, Boutwell, Bowen, Bromwell, Broomall, Buckley, Benjamin F. Butler, Roderick R. Butler, Cake, *Cary*, Churchill, Sidney Clarke, Cook, Corley, Covode, Dawes, Dickey, Thomas D. Eliot, James T. Elliott, Ferriss, Fields, French, *Golladay*, Goss, Gove, *Grover*, Halsey, Higby, Hooper, Hulburd, Jenckes, *Johnson*, Kelley, Kelsey, Ketcham, Lafin, Lash, Loughridge, Maynard, McKee, Miller, Morrell, Nunn, O'Neill, Perham, *Phelps*, Pike, Poland, Pomeroy, Price, Prince, *Pruyn*, Robertson, Roots, Sawyer, Selye, Shellabarger, Stokes, Sypher, Taffe, Thomas, John Trimble, Trowbridge, Twichell, Van Aernam, Burt Van Horn, Ward, Thomas Williams—71.

Mr. Shellabarger then withdrew his amendment, and the joint resolution passed—yeas 140, nays 37, (not voting 46,) as follow:

YEAS—Messrs. Allison, Ames, Arnell, Delos R. Ashley, James M. Ashley, Baker, Banks, Beaman, Beatty, Benjamin, Benton, Bingham, Blaine, Blair, Boutwell, Bowen, Bromwell, Broomall, Buckland, Buckley, Benjamin F. Butler, Roderick R. Butler, Cake, Churchill, Reader W. Clarke, Sidney Clarke, Clift, Cobb, Coburn, Cook, Corley, Covode, Cullom, Dawes, Dickey, Dockery, Dodge, Donnelly, Driggs, Eckley, Eggleston, Ela, Thomas D. Eliot, James T. Elliott, Farnsworth, Ferriss, Ferry, Fields, French, Garfield, Goss, Gove, Gravely, Griswold, Halsey, Hamilton, Haughey, Heaton, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Alexander H. Jones, Judd, Julian, Kelley, Kellogg, Kelsey, Ketcham, Kitchen, Koontz, Lafin, Lash, George V. Lawrence, William Lawrence, Logan, Loughridge, Lynch, Marvin, Maynard, McKee, Mercur, Miller, Moore, Moorhead, Morrell, Myers, O'Neill, Orth, Paine, Perham, Peters, Pettis, Pile, Plants, Poland, Pomeroy, Price, Prince, Raum, Roots, Sawyer, Schenck, Scofield, Selye, Shanks, Shellabarger, Smith, Starkweather, Stevens, Stokes, Stover, Sypher, Taffe, Taylor, Thomas, Tift, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Cadwalader C. Washburn, William B. Washburn, Welker, Whittemore, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, Woodbridge, and Mr. Speaker Colfax—140.

NAYS—Messrs. *Archer*, *Axtell*, *Barnum*, *Beck*, *Boyer*, *Burr*, *Cary*, *Chanler*, *Eldridge*, *Fox*, *Getz*, *Golladay*, *Grover*, *Haight*, Hawkins, *Holman*, *Hotchkiss*, *Humphrey*, Jenckes, *Johnson*, *Knott*, *Marshall*, *McCormick*, *McCullough*, *Mungen*, *Niblack*, *Nicholson*, *Phelps*, *Pruyn*, *Randall*, *Robinson*, *Ross*, *Stone*, *Taber*, *Van Trump*, *Woodward*, *Young*—37.

IN SENATE.

February 23—The Senate disagreed to the amendment of the House, and asked a conference on the disagreeing votes of the two Houses thereon; which was agreed to—yeas 32, nays 17, as follow:

YEAS—Messrs. Anthony, Cattell, Chandler, Cole, Conkling, Cragin, Drake, Edmunds, Ferry, Frelinghuysen, Grimes, Harris, Howard, Howe, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Nye, Osborn, Pomeroy, Ramsey, Sherman, Sprague, Stewart, Thayer, Tipton, Trumbull, Van Winkle, Willey, Williams, Wilson —32.

NAYS—Messrs. Abbott, *Buckalew*, *Davis*, *Dixon*, *Doolittle*, Kellogg, *McCreery*, *Norton*, *Patterson* of Tennessee, Pool, Rice, Robertson, Ross, Sawyer, *Vickers*, Warner, *Whyte*—17.

Messrs. Stewart, Conkling, and Edmunds were appointed the managers of the conference on the part of the Senate; and Messrs. Boutwell, Bingham, and Logan were appointed on the part of the House, the House having agreed to the conference—yeas 117, nays 37, not voting 68.

February 25—The conference reported, recommending that the House recede from their amendment, and agree to the resolution of the Senate, with an amendment, as follows: In section 1, line 2, strike out the words "and hold office," and the Senate agree to the same.

February 26—The Senate agreed to the report —yeas 39, nays 13, as printed on page 399.

February 25—The House agreed to the report —yeas 144, nays 44, not voting 35, as printed on page 399.

XLI.

MEMBERS OF THE CABINET OF PRESIDENT GRANT, AND OF THE FORTY-FIRST CONGRESS.

PRESIDENT GRANT'S CABINET.*

Secretary of State—HAMILTON FISH, of New York, *vice* ELLIHU B. WASHBURNE, of Illinois, resigned March 10, 1869.

Secretary of the Treasury—GEORGE S. BOUTWELL, of Massachusetts.

Secretary of War—JOHN A. RAWLINS, of Illinois.

Secretary of the Navy—GEORGE M. ROBESON, of

*Mr. Washburne was nominated and confirmed as Secretary of State March 5, and resigned March 10, to take effect upon the qualification of his successor, which took place March 16. Mr. Alexander T. Stewart, of New York, was nominated and confirmed as Secretary of the Treasury March 5, and resigned March 9, being found disqualified by the act of Congress of September 2, 1789, providing that the Secretary of the Treasury, with

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New Jersey, *vice* ADOLPH E. BORIE, of Pennsylvania, resigned June 25, 1869.
Postmaster General—JOHN A. J. CRESWELL, of Maryland.
Secretary of the Interior—JACOB D. COX, of Ohio.
Attorney General—E. ROCKWELL HOAR, of Massachusetts.

MEMBERS OF THE FORTY-FIRST CONGRESS.

First Session, March 4, 1869—April 10, 1869.

Senate.

SCHUYLER COLFAX, of Indiana, *Vice-President of the United States and President of the Senate.*
George C. Gorham, of California, *Secretary.*
Maine—William Pitt Fessenden, Hannibal Hamlin.
New Hampshire—Aaron H. Cragin, James W. Patterson.
Vermont—Justin S. Morrill, George F. Edmunds.
Massachusetts—Henry Wilson, Charles Sumner.
Rhode Island—Henry B. Anthony, William Sprague.
Connecticut—Orris S. Ferry, William A. Buckingham.
New York—Roscoe Conkling, Reuben E. Fenton.
New Jersey—Alexander G. Cattell, John P. Stockton.
Pennsylvania—Simon Cameron, John Scott.
Delaware—Willard Saulsbury, Thomas F. Bayard.
Maryland—George Vickers, William T. Hamilton.*
North Carolina—John C. Abbott, John Pool.
South Carolina—Thomas J. Robertson, Frederick A. Sawyer.
Alabama—Willard Warner, George E. Spencer.
Louisiana—John S. Harris, William P. Kellogg.
Ohio—John Sherman, Allen G. Thurman.
Kentucky—Thomas C. McCreery, Garrett Davis.
Tennessee—Joseph S. Fowler, William G. Brownlow.
Indiana—Oliver P. Morton, Daniel D. Pratt.
Illinois—Richard Yates, Lyman Trumbull.
Missouri—Charles D. Drake, Carl Schurz.
Arkansas—Alexander McDonald, Benjamin F. Rice.
Michigan—Jacob M. Howard, Zachariah Chandler.
Florida—Thomas W. Osborn, Abijah Gilbert.
Iowa—James W. Grimes, James Harlan.
Wisconsin—Timothy O. Howe, Matthew H. Carpenter.
California—Cornelius Cole, Eugene Casserly.
Minnesota—Daniel S. Norton, Alexander Ramsey.
Oregon—George H. Williams, Henry W. Corbett.
Kansas—Edmund G. Ross, Samuel C. Pomeroy.
West Virginia—Waitman T. Willey, Arthur I. Boreman.
Nevada—James W. Nye, William M. Stewart.
Nebraska—John M. Thayer, Thomas W. Tipton.

House of Representatives.

JAMES G. BLAINE, of Maine, *Speaker.*
Edward McPherson, of Pennsylvania, *Clerk*
Maine—John Lynch, Samuel P. Morrill, James G. Blaine, John A. Peters, Eugene Hale.
*New Hampshire**—Jacob H. Ela, Aaron F. Stevens, Jacob Benton.
Vermont—Charles W. Willard, Luke P. Poland, Worthington C. Smith.
Massachusetts—James Buffinton, Oakes Ames, Ginery Twichell, Samuel Hooper, Benjamin F. Butler, Nathaniel P. Banks, George S. Boutwell,† George F. Hoar, William B. Washburn, Henry L. Dawes.
Rhode Island—Thomas A. Jenckes, Nathan F. Dixon.
Connecticut‡—Julius Strong, Stephen W. Kellogg, Henry H. Starkweather, William H. Barnum.
New York—Henry A. Reeves, John G. Schumaker, Henry W. Slocum, John Fox, John Morrissey, Samuel S. Cox,§ Hervey C. Calkin, James Brooks, Fernando Wood, Clarkson N. Potter, George W. Greene, John H. Ketcham, John A. Griswold, Stephen L. Mayham, Adolphus H. Tanner, Orange Ferriss, William A. Wheeler, Stephen Sanford, Charles Knapp, Addison H. Laflin, Alexander H. Bailey, John C. Churchill, Dennis McCarthy, George W. Cowles, William H. Kelsey, Giles W. Hotchkiss, Hamilton Ward, Noah Davis, John Fisher, David S. Bennett, Porter Sheldon.
New Jersey—William Moore, Charles Haight, John T. Bird, John Hill, Orestes Cleveland.
Pennsylvania—Samuel J. Randall, Charles O'Neill, Leonard Myers,‖ William D. Kelley, John R. Reading, John D. Stiles, Washington Townsend, J. Lawrence Getz, Oliver J. Dickey, Henry L. Cake, Daniel M. Van Auken, George W. Woodward, Ulysses Mercur, John B. Packer, Richard J. Haldeman, John Cessna, Daniel J. Morrell, William H. Armstrong, Glenni W. Scofield, Calvin W. Gilfillan (vacancy), James S. Negley, Darwin Phelps, Joseph B. Donley.
Delaware—Benjamin T. Biggs.
Maryland—Samuel Hambleton, Stevenson Archer, Thomas Swann, Patrick Hamill, Frederick Stone.
North Carolina—Clinton L. Cobb, David Heaton, Oliver H. Dockery, John T. Deweese, Israel G. Lash, Francis E. Shober,¶ Alexander H. Jones.
South Carolina—B. F. Whittemore, C. C. Bowen, Solomon L. Hoge,** (vacancy.)
Louisiana—(Vacancy,) Lionel A. Sheldon,*** (vacancy,) (vacancy.)
Ohio—Peter W. Strader, Job E. Stevenson,

other officers described, shall not be, directly or indirectly, concerned or interested in carrying on the business of trade or commerce, or be owner, in whole or in part, of any sea vessel, or purchase, by himself or another in trust for him, any public lands or other public property, or be concerned in the purchase or disposal of any public securities of any State or of the United States, or take or apply to his own use any emolument or gain for negotiating or transacting any business in the said Department other than what shall be allowed by law. Mr. Boutwell qualified March 12, 1869. Mr. Schofield remained Secretary of War until March 12, when Mr. Rawlins qualified

*Qualified March 25, 1869.

*Qualified March 15.
†Resigned March 12.
‡Messrs. Strong, Kellogg, and Starkweather qualified April 9, 1869; Mr. Barnum did not appear.
§Did not qualify, by reason of absence from the country.
‖Qualified April 9, 1869, in place of John Moffet, unseated.
¶Did not qualify, disabilities not having been relieved.
**Admitted on *prima facie*, yeas 101, nays 39, and qualified April 8.
***Qualified April 8, having been voted entitled to the seat, yeas 85, nays 38.

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Robert C. Schenck, William Lawrence, William Mungen, John A. Smith, James J. Winans, John Beatty, Edward F. Dickinson, Truman H. Hoag, John T. Wilson, Philadelph Van Trump, George W. Morgan, Martin Welker, Eliakim H. Moore, John A. Bingham, Jacob A. Ambler, William H. Upson, James A. Garfield.

Kentucky—Lawrence S. Trimble, William N. Sweeney, J. S. Golladay, J. Proctor Knott, Boyd Winchester, Thomas L. Jones, James B. Beck, George M. Adams, John M. Rice.

Tennessee—Roderick R. Butler, Horace Maynard, William B. Stokes, Lewis Tillman, William F. Prosser, Samuel M. Arnell, Isaac R. Hawkins, William J. Smith.

Indiana—William E. Niblack, Michael C. Kerr, William S. Holman, George W. Julian, John Coburn, Daniel W. Voorhees, Godlove S. Orth, James N. Tyner, John P. C. Shanks, William Williams, Jasper Packard.

Illinois—Norman B. Judd, John F. Farnsworth, Ellihu B. Washburne,* John B. Hawley, Ebon C. Ingersoll, Burton C. Cook, Jesse H. Moore, Shelby M. Cullom, Thompson W. McNeely, Albert G. Burr, Samuel S. Marshall, John B. Hay, John M. Crebs, John A. Logan.

Missouri—Erastus Wells, Gustavus A. Finkelnburg, James R. McCormick, Sempronius H. Boyd, Samuel S. Burdett, Robert T. Van Horn, Joel F. Asper, John F. Benjamin, David P. Dyer.

Arkansas—Logan H. Roots, A. A. C. Rogers, Thomas Boles.

Michigan—Fernando C. Beaman, William L. Stoughton, Austin Blair, Thomas W. Ferry, Omar D. Conger, Randolph Strickland.

Florida—Charles M. Hamilton.

Iowa—George W. McCrary, William Smyth, William B. Allison, William Loughridge, Frank W. Palmer, Charles Pomeroy.

Wisconsin—Halbert E. Paine, Benjamin F. Hopkins, Amasa Cobb, Charles A. Eldridge, Philetus Sawyer, Cadwalader C. Washburn.

California—Samuel B. Axtell, Aaron A. Sargent, James A. Johnson.

Minnesota—Morton S. Wilkinson, Eugene M. Wilson.

Oregon—Joseph S. Smith.

Kansas—Sidney Clarke.

West Virginia—Isaac H. Duval, James C. McGrew, John S. Witcher.

Nevada—Thomas Fitch.

Nebraska—John Taffe.

*Resigned March 6.

XLII.

POLITICAL VOTES IN FIRST SESSION OF FORTY-FIRST CONGRESS.

Additional Reconstruction Legislation.

AN ACT authorizing the submission of the constitutions of Virginia, Mississippi, and Texas to a vote of the people, and authorizing the election of State officers, provided by the said constitutions, and members of Congress.

Be it enacted, &c., That the President of the United States, at such time as he may deem best for the public interest, may submit the constitution which was framed by the convention which met in Richmond, Virginia, on Tuesday, the 3d day of December, 1867, to the voters of said State, registered at the date of said submission, for ratification or rejection, and may also submit to a separate vote such provisions of said constitution as he may deem best, such vote to be taken either upon each of the said provisions alone, or in connection with the other portions of said constitution, as the President may direct.

SEC. 2. That at the same election the voters of said State may vote for and elect members of the General Assembly of said State, and all the officers of said State provided for by the said constitution, and members of Congress; and the officer commanding the district of Virginia shall cause the lists of registered voters of said State to be revised, enlarged, and corrected prior to such election, according to law, and for that purpose may appoint such registrars as he may deem necessary. And said elections shall be held, and returns thereof made, in the manner provided by the acts of Congress commonly called the reconstruction acts.

SEC. 3. That the President of the United States may in like manner submit the constitution of Texas to the voters of said State at such time and in such manner as he may direct, either the entire constitution, or separate provisions of the same, as provided in the 1st section of this act, to a separate vote; and at the same election the voters may vote for and elect the members of the Legislature and all the State officers provided for in said constitution, and members of Congress: *Provided, also*, That no election shall be held in said State of Texas for any purpose until the President so directs.

SEC. 4. That the President of the United States may in like manner re-submit the constitution of Mississippi to the voters of said State at such time and in such manner as he may direct, either the entire constitution or separate provisions of the same, as provided in the 1st section of this act, to a separate vote; and at the same election the voters may vote for and elect the members of the legislature and all the State officers provided for in said constitution, and members of Congress.

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SEC. 5. That if either of said constitutions shall be ratified at such election, the Legislature of the State so ratifying, elected as provided for in this act, shall assemble at the capital of said State on the fourth Tuesday after the official promulgation of such ratification by the military officer commanding in said State.

SEC. 6. That before the States of Virginia, Mississippi, and Texas shall be admitted to representation in Congress, their several legislatures, which may be hereafter lawfully organized, shall ratify the fifteenth article which has been proposed by Congress to the several States as an amendment to the Constitution of the United States.

SEC. 7. That the proceedings in any of the said States shall not be deemed final, or operate as a complete restoration thereof, until their action, respectively, shall be approved by Congress.

Approved April 10, 1869.

The final votes on this act were as follow:

IN SENATE, *April* 9.

YEAS—Messrs. Abbott, Boreman, Brownlow, Buckingham, Carpenter, Cattell, Chandler, Cole, Conkling, Corbett, Cragin, Drake, Fenton, Ferry, Fessenden, Hamlin, Harris, Howard, Howe, McDonald, Morrill, Morton, Nye, Patterson, Pomeroy, Pratt, Ramsey, Rice, Robertson, Ross, Sawyer, Schurz, Scott, Sherman, Spencer, Stewart, Sumner, Thayer, Tipton, Trumbull, Warner, Willey, Williams, Wilson—44.

NAYS—Messrs. *Bayard, Casserly, Davis,* Fowler, *McCreery, Norton,* Sprague, *Stockton, Thurman*—9.

IN HOUSE, *April* 9.

YEAS—Messrs. Ambler, Ames, Armstrong, Asper, Banks, Beaman, Benton, Bingham, Blair, Boles, Bowen, Boyd, Buffinton, B. F. Butler, Cake, Cessna, Churchill, Amasa Cobb, Clinton L. Cobb, Coburn, Cook, Conger, Cullom, Dawes, Deweese, Dockery, Duval, Ela, Farnsworth, Ferriss, Ferry, Finkelnburg, Fitch, Gilfillan, Hale, Hawley, Hay, Heaton, Hoar, Hooper, Hopkins, Hotchkiss, Ingersoll, Alexander H. Jones, Judd, Julian, Kelley, Kellogg, Ketcham, Knapp, Laflin, Lash, Logan, Loughridge, Lynch, Maynard, McCarthy, McCrary, McGrew, Mercur, William Moore, Morrell, Myers, Negley, O'Neill, Orth, Packard, Paine, Palmer, Phelps, Poland, Pomeroy, Prosser, Roots, Sargent, Sawyer, Scofield, Shanks, Lionel A. Sheldon, Porter Sheldon, John A. Smith, William J. Smith, William Smyth, Starkweather, Stevens, Stevenson, Stokes, Stoughton, Strickland, Strong, Tanner, Tillman, Townsend, Twichell, Tyner, Upson, Van Horn, Ward, Cadwalder C. Washburn, Welker, Wheeler, Whittemore, Wilkinson, Willard, Williams, John T. Wilson, Winans, Witcher—108.

NAYS—Messrs. *Adams, Archer, Axtell, Biggs, Bird, Brooks, Burr, Cleveland, Crebs, Eldridge, Getz, Golladay, Griswold, Haldeman, Hamill,* Hawkins, *Holman, Thomas L. Jones, Kerr, Knott, Marshall, Mayham, McCormick, McNeely, Niblack, Potter, Reeves, Slocum, Stone, Swann, Sweeney, Trimble, Van Auken, Van Trump, Voorhees, Wells, Eugene M. Wilson, Winchester, Woodward*—39.

Previous Votes.

IN HOUSE.

1869, April 8—The House passed the following bill:

AN ACT authorizing the submission of the constitutions of Virginia, Mississippi, and Texas to a vote of the people, and authorizing the election of State officers, provided by the said constitutions, and members of Congress.

Be it enacted, &c., That the President of the United States, at such time as he may deem best for the public interest, may submit the constitution which was framed by the convention which met in Richmond, Virginia, on Tuesday, the 3d day of December, 1867, to the registered voters of said State for ratification or rejection, and may also submit to a separate vote such provisions of said constitution as he may deem best, such vote to be taken either upon each of the said provisions alone, or in connection with the other portions of said constitution, as the President may direct.

SEC. 2. That at the same election the voters of said State may vote for and elect members of the general assembly of said State, and all the officers of said State provided for by the said constitution, and members of Congress; and the officer commanding the district of Virginia shall cause the lists of registered voters of said State to be revised and corrected prior to such election, and for that purpose may appoint such registrars as he may deem necessary. And said election shall be held and returns thereof made in the manner provided by the election ordinance adopted by the convention which framed said constitution.

SEC. 3. That the President of the United States may in like manner submit the constitution of Texas to the voters of said State at such time and in such manner as he may direct, either the entire constitution, or separate provisions of the same, as provided in the 1st section of this act, to a separate vote; and at the same election the voters may vote for and elect the members of the legislature and all the State officers provided for in said constitution, and members of Congress: *Provided, also,* That no election shall be held in said State of Texas for any purpose until the President so directs.

SEC. 4. That the President of the United States may in like manner re-submit the constitution of Mississippi to the voters of said State, at such time and in such manner as he may direct, either the entire constitution or separate provisions of the same, as provided in the 1st section of this act, to a separate vote; and at the same election the voters may vote for and elect the members of the legislature and all the State officers provided for in said constitution, and members of Congress.

SEC. 5. That if either of said constitutions shall be ratified at such election, the legislature of the State so ratifying, elected as provided for in this act, shall assemble at the capital of said States, respectively, on the fourth Tuesday after the official promulgation of such ratification by the military officer commanding in said State.

SEC. 6. That in either of said States the commanding general, subject to the approval of the President of the United States, may suspend, until the action of the legislature elected under the constitution respectively, all laws that he may deem unjust and oppressive to the people.

Yeas 125, nays 25, (not voting 47,) as follow:

YEAS—Messrs. Allison, Ambler, Armstrong, Arnell, *Axtell,* Bailey, Banks, Beaman, Beatty, *Beck,* Bingham, Blair, Boles, Bowen, *Brooks,* Buffinton, Burdett, Benjamin F. Butler, Roderick R. Butler, *Calkin,* Cessna, Churchill, Clarke, Amasa Cobb, Clinton L. Cobb, Coburn, Cook, Conger, *Crebs,* Cullom, Davis, Dawes, Deweese, Dickey, *Dickinson,* Dixon, Dockery, Donley, Duval, Ela, Farnsworth, Ferriss, Ferry, Finckelnburg, Fisher, Fitch, Garfield, Gilfillan, Hale, Hawley, Hay, Heaton, Hill, Hoar, Hoge, Hopkins, Hotchkiss, Ingersoll, Jenckes, Alexander H. Jones, Judd, Julian, Kelley, Kelsey, Ketcham, Knapp, Laflin, Lash, Lawrence, Logan, Loughridge, Lynch, McCarthy, *McCormick,* McCrary, McGrew, William Moore, *Morgan,* Morrell, Morrill,

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Negley, O'Neill, Orth, Packard, Packer, Paine, Palmer, Phelps, Poland, Pomeroy, Prosser, Roots, Sanford, Sawyer, Schenck, Scofield, Shanks, Sheldon, *Slocum*, John A. Smith, William J. Smith, William Smyth, Stevens, Stevenson, Stokes, Stoughton, Strickland, Tanner, Tillman, Townsend, Tyner, Upson, Ward, Cadwalader C. Washburn, William B. Washburn, Welker, Wheeler, Whittemore, Wilkinson, Willard, Williams, John T. Wilson, Winans, Witcher, *Woodward*—125.

NAYS—Messrs. *Adams, Archer, Biggs, Bird, Burr, Cleveland, Eldridge, Getz, Golladay, Haldeman, Hamill, Holman, Thomas L. Jones, Kerr, Knott, McNeely, Moffet, Niblack, Potter, Randall, Reeves, Sweeney, Trimble, Wells, Winchester*—25.

IN SENATE.

1869, April 9—The House bill pending,

Mr. Morton moved this as a new section:

That, before the States of Virginia, Mississippi, and Texas shall be admitted to representation in Congress, their several legislatures, which may be hereafter lawfully organized, shall ratify the fifteenth article which has been proposed by Congress to the several States as an amendment to the Constitution of the United States.

Which was agreed to—yeas 30, nays 20, as follow:

YEAS—Messrs. Abbott, Brownlow, Buckingham, Carpenter, Chandler, Cole, Drake, Harris, Howard, McDonald, Morrill, Morton, Nye, Osborn, Pool, Pratt, Ramsey, Rice, Robertson, Ross, Schurz, Sherman, Stewart, Sumner, Thayer, Tipton, Warner, Williams, Wilson, Yates—30.

NAYS—Messrs. Anthony, *Bayard*, Boreman, *Casserly*, Conkling, *Davis*, Edmunds, Fenton, Ferry, Fessenden, Fowler, *McCreery, Norton*, Patterson, Sawyer, Sprague, *Stockton, Thurman*, Trumbull, Willey—20.

A few unimportant changes were made, and the bill passed both Houses, as above.

[A bill passed the House of Representatives, December 9, 1868, providing for an election in Virginia on the 27th of May, 1869, on the constitution and for State officers, and for members of Congress, the legislature to meet September 7. It passed without a division. The bill was reported in Senate from the Judiciary Committee, with amendments, February 10, 1869, but was not called up.

The general provisions of the bill were these: That the constitution adopted by the convention which met in Richmond, Virginia, on the 3d day of December, A. D. 1867, be submitted for ratification on the day above named to the voters of the State of Virginia, who shall then be registered and qualified as such in compliance with the acts of Congress known as the reconstruction acts. The vote on said constitution shall be "for the constitution," or "against the constitution." The said election shall be held at the same places where the election for delegates to said convention was held, and under the regulations to be prescribed by the commanding general of the military district, and the returns made to him as directed by law.

It is provided by the second section that an election shall be held at the same time and places for members of the general assembly and for all State officers to be elected by the people under said constitution; the election for State officers to be conducted under the same regulations as the election for the ratification of the constitution and by the same persons. The returns of this election shall be in duplicate; one copy to the commanding general and one copy to the president of said convention, who shall give certificates of election to the persons elected. The officers elected shall enter upon the duties of the offices for which they are chosen as soon as elected and qualified in compliance with the provisions of said constitution, and shall hold their respective offices for the term of years prescribed by the constitution, counting from the 1st day of January next, and until their successors are elected and qualified.

The third section provides that an election for members of the United States Congress shall be held in the congressional districts as established by said convention, one member of Congress being elected in the State at large, at the same time and places as the election for State officers; said election to be conducted by the same persons and under the same regulations before mentioned in this act; the returns to be made in the same manner provided for State officers.

By the fourth section it is provided that no person shall act either as a member of any board of registration to revise and correct the registration of voters as provided in section seven of the act of July 19, 1867, amendatory of the act of March 2, 1867, entitled "An act for the more efficient government of the rebel States," &c., or as a judge, commissioner, or other officer, at any election to be held under the provisions of this act, who is a candidate for any office at the elections to be held as herein provided for.

The fifth section provides that the general assembly elected under and by virtue of this act shall assemble at the capitol, in the city of Richmond, on first Tuesday in September, 1869.

The Senate committee's amendments were: To submit, at the same election, to a separate vote of said voters, the question whether the fourth subdivision of the first section of the third article and the seventh section of the third article of said constitution shall constitute a part thereof, and the vote on said question shall be "for disqualification" or "against disqualification." Also, to substitute the following for the fifth section:

In case a majority of all the votes cast on the ratification of the constitution shall be "for the constitution," the general assembly elected under and by virtue of this act shall assemble at the capitol, in the city of Richmond, on the first Tuesday of July, 1869; but if a majority of the votes cast on the question of ratification be against said constitution, said general assembly shall not convene nor shall any person elected to office under the provisions of this act enter upon the discharge of the duties thereof in pursuance of said election. The provision of the constitution voted upon separately shall constitute a part of the constitution if a majority of the votes cast upon it be "for disqualification;" but if a majority of the votes cast on that question be "against disqualification," it shall not constitute part of the constitution.]

The Mississippi Bill.

IN HOUSE.

1869, March—Mr. Benjamin F. Butler, from the Committee on Reconstruction, reported the following bill:

A BILL to provide for the organization of a provisional government for the State of Mississippi.

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Be it enacted, &c., That for the better security of persons and property in Mississippi, the constitutional convention of said State, heretofore elected under and in pursuance of an act of Congress, passed March 2, 1867, entitled "An act for the more efficient government of the rebel States," and the several acts of Congress supplementary thereto and amendatory thereof, and as organized at the time of its adjournment, is hereby authorized to assemble forthwith upon the call of the president thereof; and in case of his failure for thirty days to summon said convention, then the commanding general of the fourth military district is hereby authorized and required to summon by proclamation said convention to assemble at the capital of said State; and said convention shall have, and it is hereby authorized to exercise, the following powers in addition to the powers now authorized by law, to wit: to appoint a provisional governor; to authorize the provisional governor of said State to remove and appoint registrars and judges of elections under said acts of Congress, who shall not be voted for at elections within their own precincts; to submit to the people of said State the constitution heretofore framed by said convention, either with or without amendments; to provide by ordinance that the votes for and against said constitution and for and against the clauses thereof submitted by this act to a separate vote, together with the votes cast for and against all State and local officers voted for under said constitution, shall be forwarded to the provisional governor by the judges of election, and shall be counted in the presence of the provisional governor, the general commanding the military district of Mississippi, and such committee as the convention may appoint for that purpose; and it shall be the duty of said provisional governor, commanding general, and committee to make proclamation of the result of such elections; to pass laws exempting a homestead not exceeding $1,000 in value, and household furniture, mechanical and farming tools, provisions, and other articles of personal property necessary for the support of a family, not exceeding $500 in value, from seizure or sale upon process for the collection of debts; which laws shall continue in force until repealed or modified by the legislature to be elected under the Constitution; and to pass such ordinances, not inconsistent with the Constitution and laws of the United States, as it may deem necessary to protect all persons in their lives, liberty, and property: *Provided*, That said convention shall not continue in session for more than sixty days: *And provided further*, That the districts unrepresented from any cause in the convention at the time of its adjournment shall at once proceed to elect duly qualified persons to take seats in said convention. The election of such delegates shall be held under the direction of the commanding general, in accordance with the provisions of the act of Congress approved March 2, 1867, entitled "An act for the more efficient government of the rebel States," and the acts supplementary thereto; and certificates of election shall be awarded to the candidates receiving the highest number of votes: *And provided, also*, That said convention may submit any one or more provisions of said proposed constitution to a separate vote.

SEC. 2. That the several ordinances which may be passed by the constitutional convention of said State within the limitations as herein provided, shall be in force in said State until disapproved by Congress, or until Mississippi shall have adopted a constitution of State government and the same shall have been approved by Congress: *Provided*, That nothing in this act contained shall deprive any person of trial by jury in the courts of said State for offences against the laws of said State.

SEC. 3. That the military commander in said State, upon the requisition of the provisional governor thereof, shall give aid to the officers of the provisional government of said State in preserving the peace and enforcing the laws, and especially in suppressing unlawful obstructions and forcible resistance to the execution of the laws.

SEC. 4. That the said provisional governor may remove from office in said State any person holding office therein, and may appoint a successor in his stead, and may also fill all vacancies that may occur by death, resignation, or otherwise, subject, however, in all removals and appointments, to the orders and directions of the President of the United States; and the President of the United States may at any time remove the said provisional governor and appoint a successor in his stead.

SEC. 5. That if at any election authorized in the State of Mississippi any person shall knowingly personate and falsely assume to vote in the name of any other person, whether such other person shall then be living or dead, or if the name of the said other person be the name of a fictitious person, or vote more than once at the same election for any candidate for the same office, or vote at a place where he may not be lawfully entitled to vote, or without having a lawful right to vote, or falsely register as a voter, or do any unlawful act to secure a right or an opportunity for himself or other person to vote, or shall, by force, fraud, threat, menace, intimidation, bribery, reward, offer, or promise of any valuable thing whatever, or by any contract for employment, or labor, or for any right whatever, or otherwise attempt to prevent any voter who may at any time be qualified from freely exercising the right of suffrage, or shall by either of such means induce any voter to refuse or neglect to exercise such right, or compel or induce, by either of such means, or otherwise, any officer of an election to receive a vote from a person not legally qualified or entitled to vote, or interfere to hinder or impede in any manner any officer in any election in the discharge of his duties, or by either of such means, or otherwise, induce any officer in any election, or officer whose duty it is to ascertain, announce, or declare the result of any vote, or give or make any certificate, document, or evidence in relation thereto, to violate or refuse to comply with his duty or any law regulating the same, or if any such officer shall neglect or refuse to perform any duty required of him by law, or violate any duty imposed by law, or do any act unauthorized by law relating to or affecting any such vote, election,

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or the result thereof, or if any person shall aid, counsel, procure, or advise any such voter, person, or officer to do any act herein made a crime, or to omit to do any duty the omission of which is hereby made a crime, or attempt so to do, or if any person shall by force, threat, menace, intimidation, or otherwise prevent any citizen or citizens from assembling in public meeting to discuss or hear discussed any subject whatever, or if any person shall by any means break up, disperse, or molest any assemblage, or any citizen in or of such assemblage when met or meeting to discuss or hear discussion, as aforesaid, or shall by any means prevent any citizen from attending any such assemblage, every person so offending shall be deemed guilty of a crime, and shall for such crime be liable to indictment in any court of the United States of competent jurisdiction, and on conviction thereof shall be adjudged to pay a fine not exceeding five hundred dollars or less than one hundred dollars, and suffer imprisonment for a term not exceeding three years nor less than six months, in the discretion of the court, and pay the costs of prosecution.

SEC. 6. That no officer of Mississippi shall buy or sell treasury warrants, or claims of any sort upon the treasury of the State, or of any county or district thereof. All taxes and moneys collected by any officer shall be paid into the appropriate treasury; and any collector who may receive warrants in payment of taxes shall file with the treasurer a schedule, made under oath, of such warrants, with the name and residence of each person from whom any such warrant may have been received. Any person who shall violate this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as is prescribed in the fifth section of this act.

SEC. 7. That the courts of the United States shall have jurisdiction of cases arising under this act.

SEC. 8. That the poll-tax levied in any one year upon any citizen of Mississippi shall not exceed $1 50, and all laws in said State for the collection of taxes and debts shall be uniform, and every citizen shall be entitled to all the exemptions and immunities in these respects of the most favored citizen or class of citizens.

SEC. 9. That all lands which shall hereafter be forfeited and sold for non-payment of any tax, impost, or assessment whatever, in the State of Mississippi, or under proceedings in bankruptcy, or by virtue of the judgment or decree of any court in the said State of Mississippi, shall be disposed of only by sale in separate sub-divisions not exceeding forty acres each: *Provided, however*, That such portion of said land shall first be offered for sale as can be sold with the least injury to the remainder.

April 1—Its further consideration was postponed till the first Monday in December next—yeas 103, nays 62, (not voting 31,) as follow:

YEAS—Messrs. Allison, *Archer*, Armstrong, *Axtell*, Bailey, *Beck*, *Biggs*, *Bird*, Blair, *Brooks*, *Burr*, *Calkin*, *Cleveland*, Cowles, *Crebs*, Cullom, Dawes, Deweese, *Dickinson*, Dixon, Dockery, *Eldridge*, Farnsworth, Ferriss, Finkelnburg, Fitch, Garfield, *Getz*, Gilfillan, *Golladay*, Griswold, *Haldeman*, Hale, *Hambleton*, *Hamill*, Hawkins, Hawley, *Hoag*, *Holman*, Hopkins, *Hotchkiss*, Jenckes, *Johnson*, *Thomas L. Jones*, *Kerr*, Laflin, Loughridge, Lynch, *Marshall*, *Mayham*, McCarthy, *McCormick*, McCrary, *McNeely*, Mercur, *Moffet*, Jesse H. Moore, William Moore, *Morgan*, Morrell, Morrill, *Mungen*, *Niblack*, O'Neill, Packer, Palmer, Peters, Poland, Pomeroy, *Potter*, *Randall*, *Reading*, *Reeves*, *Rice*, Rogers, Schenck, *Schumaker*, Scofield, Shanks, *Slocum*, Worthington C. Smith, William Smyth, Stevens, *Stiles*, Stokes, *Stone*, Strickland, *Swann*, *Sweeney*, Taffe, Tanner, *Trimble*, Twichell, *Van Auken*, *Voorhees*, Cadwalader C. Washburn, William B. Washburn, *Wells*, Wilkinson, Willard, *Eugene M. Wilson*, Winans, *Woodward*—103.

NAYS—Messrs. Ambler, Arnell, Asper, Beaman, Beatty, Benton, Bingham, Bowen, Boyd, Buffinton, Burdett, Benjamin F. Butler, Roderick R. Butler, Cake, Cessna, Churchill, Amasa Cobb, Clinton L. Cobb, Coburn, Cook, Conger, Donley, Duvall, Ela, Fisher, Hay, Heaton, Hill, Hoar, Alexander H. Jones, Judd, Julian, Kelley, Kelsey, Knapp, Lash, Lawrence, Maynard, Eliakim H. Moore, Negley, Orth, Packard, Paine, Phelps, Prosser, Roots, Sargent, Sheldon, John A. Smith, William J. Smith, Stevenson, Stoughton, Tillman, Tyner, Upson, Van Horn, Ward, Welker, Whittemore, Williams, John T. Wilson, Witcher—62.

The Public Credit Act.

This bill became a law March 18, 1869, being the first act approved by President GRANT:

Be it enacted, &c., That in order to remove any doubt as to the purpose of the Government to discharge all just obligations to the public creditors, and to settle conflicting questions and interpretations of the laws by virtue of which such obligations have been contracted, it is hereby provided and declared, that the faith of the United States is solemnly pledged to the payment in coin or its equivalent of all the obligations of the United States not bearing interest, known as United States notes, and of all the interest-bearing obligations of the United States, except in cases where the law authorizing the issue of any such obligation has expressly provided that the same may be paid in lawful money or other currency than gold and silver. But none of said interest-bearing obligations not already due shall be redeemed or paid before maturity unless at such time United States notes shall be convertible into coin at the option of the holder, or unless at such time bonds of the United States bearing a lower rate of interest than the bonds to be redeemed can be sold at par in coin. And the United States also solemnly pledges its faith to make provision at the earliest practicable period for the redemption of the United States notes in coin.

March 12—It passed the House—yeas 97, nays 47, (not voting 49,) as follow:

YEAS—Messrs. Allison, Ambler, Ames, Armstrong, Arnell, Asper, *Axtell*, Bailey, Banks, Beaman, Benjamin, Bennett, Bingham, Blair, Boles, Boyd, Buffinton, Burdett, Cessna, Churchill, Clinton L. Cobb, Cook, Conger, Cowles, Cullom, Dawes, Donley, Duval, Dyer, Farnsworth, Ferriss, Ferry, Finkelnburg, Fisher, Fitch, Gilfillan, Hale, Hawley, Heaton, Hoar, Hooper, Hotchkiss, Jenckes, Alexander H. Jones, Judd, Julian, Kelsey, Ketcham, Knapp, Laflin, Lash, Lawrence, Lynch, Maynard, McCrary, McGrew, Mercur, Jesse H. Moore, William Moore, Morrill, Negley, O'Neill, Packard, Paine, Palmer, Phelps, Poland, Pomeroy, Prosser, Roots, Sanford, Sargent, Sawyer, Schenck, Scofield, Sheldon, John A. Smith, Worthington C. Smith, William Smyth, Stokes, Stoughton, Strickland, Tanner, Tillman, Twichell, Upson, Van Horn, Ward, Cadwalader C. Washburn, William B. Washburn, Welker, Wheeler, Whittemore, Wilkinson, Willard, Williams, Winans—97.

NAYS—Messrs. *Archer*, Beatty, *Beck*, *Biggs*, *Bird*, *Burr*, Benjamin F. Butler, Roderick R. Butler, Amasa Cobb, Coburn, *Crebs*, Deweese, *Dickinson*, *Eldridge*, *Getz*, *Golladay*, Hawkins, *Holman*, Hopkins, *Johnson*, *Thomas L. Jones*, *Kerr*, *Knott*, *Marshall*, *Mayham*, *McCormick*, *McNeely*, *Moffet*, *Mungen*, *Niblack*, Orth, *Reading*, *Reeves*, *Rice*, Shanks, *Joseph S. Smith*, *Stiles*, *Stone*, *Strader*, *Sweeney*,

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Taffe, *Trimble*, Tyner, *Van Trump*, John T. Wilson, *Winchester, Woodward*—47.

March 16—It passed the Senate—yeas 42, nays 13, as follow:

YEAS—Messrs. Abbott, Anthony, Boreman, Brownlow, Cameron, Cattell, Chandler, Conkling, Corbett, Cragin, Drake, Edmunds, Fenton, Ferry, Fessenden, Gilbert, Grimes, Harris, Howard, Kellogg, McDonald, Morrill, Nye, Patterson, Pool, Pratt, Ramsey, Robertson, Sawyer, Schurz, Scott, Sherman, Stewart, Sumner, Thayer, Tipton, Trumbull, Warner, Willey, Williams, Wilson, Yates—42.

NAYS—Messrs. *Bayard*, Carpenter, *Casserly*, Cole, *Davis*, Morton, Osborn, Rice, Ross, Spencer, *Stockton, Thurman, Vickers*—13.

Pending the consideration of this subject, the following proceedings took place:

IN HOUSE.

1869, March 12—Mr. Schenck introduced the bill passed at third session of Fortieth Congress, and "pocketed" by President JOHNSON. (See page 13-395.)

Mr. Allison moved to strike out the second section; which was agreed to—yeas 87, nays 56, as follow:

YEAS—Messrs. Allison, Ames, *Archer*, Bailey, Beaman, Beatty, *Beck, Biggs*, Bingham, *Bird*, Bowen, *Burr*, Benjamin F. Butler, Cake, Cessna, Amasa Cobb, Coburn, Cullom, Davis, Deweese, *Dickinson*, Dyer, *Eldridge*, Farnsworth, Ferriss, Ferry, Fitch, *Getz, Golladay, Haldeman*, Hale, *Hamill*, Hawkins, Hay, *Hoag, Holman*, Hooper, Hopkins, Ingersoll, Jenckes, *Thomas L. Jones*, Kelsey, *Kerr*, Knapp, *Knott*, Lawrence, Loughridge, Lynch, *Marshall, Mayham, McCormick, McNeely, Moffet*, Jesse H. Moore, Morrill, *Mungen, Niblack*, O'Neill, Orth, *Reading*, Sawyer, Scofield, Shanks, Worthington C. Smith, Stevenson, *Stiles, Stone*, Stoughton, *Strader, Swann, Sweeney*, Taffe, *Trimble*, Tyner, Van Horn, William B. Washburn, Welker, *Wells*, Wilkinson, Willard, Williams, *Eugene M. Wilson*, John T. Wilson, Winans, *Winchester*, Witcher, *Woodward*—87.

NAYS—Messrs. Armstrong, Asper, *Axtell*, Banks, Benjamin, Bennett, Blair, Boles, Boyd, Buffinton, Burdett, Roderick R. Butler, Churchill, Clinton L. Cobb, Conger, Cowles, Dawes, Dockery, Donley, Finkelnburg, Fisher, Garfield, Gilfillan, Heaton, Hoar, *Johnson*, Alexander H. Jones, Judd, Julian, Ketcham, Laflin, Lash, Logan, McGrew, Mercur, William Moore, Packard, Paine, Palmer, Poland, Pomeroy, Prosser, Roots, Sanford, Sargent, Schenck, Sheldon, John A. Smith, Stokes, Strickland, Tanner, Twichell, Ward, Cadwalader C. Washburn, Wheeler, Whittemore—56.

The bill was then passed by the vote previously given.

IN SENATE.

March 9—The following bill was reported from the Committee on Finance:

A BILL to strengthen the public credit, and relating to contracts for the payment of coin.

Be it enacted, &c., That in order to remove any doubt as to the purpose of the Government to discharge all just obligations to the public creditors, and to settle conflicting questions and interpretations of the laws by virtue of which such obligations have been contracted, it is hereby provided and declared, that the faith of the United States is solemnly pledged to the payment in coin, or its equivalent, of all the interest-bearing obligations of the United States, except in cases where the law authorizing the issue of any such obligation has expressly provided that the same may be paid in lawful money or other currency than gold and silver: *Provided, however*, That before any of said interest-bearing obligations not already due shall mature or be paid before maturity, the obligations not bearing interest, known as United States notes, shall be made convertible into coin at the option of the holder.

SEC. 2. That any contract hereafter made specifically payable in coin, and the consideration of which may be a loan of coin, or a sale of property, or the rendering of labor or service of any kind, the price of which, as carried into the contract, may have been adjusted on the basis of the coin value thereof at the time of such sale or the rendering of such service or labor, shall be legal and valid, and may be enforced according to its terms.

March 11—Mr. Howard moved to insert the word "written" before "contract" in the 2d section where it first occurs; which was agreed to.

Mr. Sumner moved to strike out the 2d section; which was agreed to—yeas 28, nays 15, as follow:

YEAS—Messrs. *Bayard*, Boreman, Carpenter, *Casserly*, Conkling, Corbett, Cragin, Ferry, Fessenden, Gilbert, Harris, Kellogg, McDonald, *Norton*, Nye, Pratt, Robertson, Sawyer, Schurz, Scott, Sprague, Stewart, *Stockton*, Sumner, *Thurman*, Trumbull, *Vickers*, Wilson—28.

NAYS—Messrs. Abbott, Anthony, Brownlow, Drake, Grimes, Hamlin, Morrill, Morton, Osborn, Patterson, Ramsey, Ross, Sherman, Warner, Williams—15.

Mr. Thurman moved to add to the 1st section the following proviso:

Provided, That nothing herein contained shall apply to the obligations commonly called five-twenty bonds.

Which was not agreed to—yeas 12, nays 31, as follow:

YEAS—Messrs. *Bayard*, Boreman, *Casserly*, Morton, *Norton*, Osborn, Pratt, Ross, Sprague, *Stockton, Thurman, Vickers*—12.

NAYS—Messrs. Abbott, Anthony, Brownlow, Carpenter, Conkling, Corbett, Cragin, Drake, Fenton, Ferry, Gilbert, Grimes, Hamlin, Harris, Kellogg, McDonald, Morrill, Nye, Patterson, Ramsey, Sawyer, Schurz, Scott, Sherman, Stewart, Sumner, Tipton, Trumbull, Warner, Williams, Wilson—31.

Mr. Morton moved to strike from section 1st the words, "authorizing the issue of any such obligation;" which was not agreed to—yeas 14, nays 32, as follow:

YEAS—Messrs. *Bayard*, Brownlow, *Casserly*, Morton, *Norton*, Pomeroy, Pratt, Robertson, Ross, Spencer, Sprague, *Stockton, Thurman, Vickers*—14.

NAYS—Messrs. Abbott, Anthony, Boreman, Carpenter, Cattell, Corbett, Cragin, Drake, Fenton, Ferry, Fessenden, Gilbert, Grimes, Hamlin, Howard, Howe, Morrill, Patterson, Ramsey, Sawyer, Schurz, Scott, Sherman, Stewart, Sumner, Thayer, Tipton, Warner, Willey, Williams, Wilson, Yates—32.

March 15—This bill was then laid aside, and the House bill taken up and passed by the vote given above.

Amendment to the Tenure-of-Office Act.

This bill passed both Houses, and became a law:

AN ACT to amend "An act regulating the tenure of certain civil offices."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first and second sections of an act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, be, and the same are hereby, repealed, and in lieu of said repealed sections the following are hereby enacted:

That every person holding any civil office to which he has been or hereafter may be appointed, by and with the advice and consent of the Senate, and who shall have become duly qualified to act therein, shall be entitled to hold such office

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during the term for which he shall have been appointed, unless sooner removed by and with the advice and consent of the Senate, or by the appointment, with the like advice and consent, of a successor in his place, except as herein otherwise provided.

SEC. 2. *And be it further enacted*, That during any recess of the Senate the President is hereby empowered, in his discretion, to suspend any civil officer appointed by and with the advice and consent of the Senate, except judges of the United States courts, until the end of the next session of the Senate, and to designate some suitable person, subject to be removed in his discretion by the designation of another, to perform the duties of such suspended officer in the meantime; and such person so designated shall take the oaths and give the bonds required by law to be taken and given by the suspended officer, and shall, during the time he performs his duties, be entitled to the salary and emoluments of such office, no part of which shall belong to the officer suspended; and it shall be the duty of the President within thirty days after the commencement of each session of the Senate, except for any office which in his opinion ought not to be filled, to nominate persons to fill all vacancies in office which existed at the meeting of the Senate, whether temporarily filled or not, and also in the place of all officers suspended; and if the Senate during such session shall refuse to advise and consent to an appointment in the place of any suspended officer, then, and not otherwise, the President shall nominate another person as soon as practicable to said session of the Senate for said office.

SEC. 3. *And be it further enacted*, That section three of the act to which this is an amendment be amended by inserting after the word "resignation," in line three of said section, the following: "or expiration of term of office."

Approved, April 5, 1869.

The final vote was as follows:

IN HOUSE, *March* 31.

YEAS—Messrs. Allison, Ambler, Ames, Armstrong, Arnell, Asper, Bailey, Banks, Beaman, Bennett, Bingham, Blair, Boles, Bowen, Buffinton, Burdett, Benjamin F. Butler, Roderick R. Butler, Cake, Cessna, Churchill, Amasa Cobb, Clinton L. Cobb, Coburn, Cook, Conger, Cowles, Cullom, Dawes, Dixon, Dockery, Donley, Duval, Ela, Ferriss, Finkelnburg, Fisher, Fitch, Garfield, Gilfillan, Hale, Hawley, Hay, Heaton, Hill, Hooper, Hopkins, Ingersoll, Jenckes, Alexander H. Jones, Judd, Kelsey, Knapp, Laflin, Lash, Logan, Lynch, Maynard, McCarthy, McCrary, McGrew, Mercur, Eliakim H. Moore, Jesse H. Moore, William Moore, Morrell, Morrill, O'Neill, Packard, Packer, Paine, Palmer, Peters, Phelps, Pomeroy, Prosser, Roots, Sanford, Sargent, Sawyer, Schenck, Scofield, Shanks, Sheldon, John A. Smith, William J. Smith, William Smyth, Stevens, Stevenson, Stokes, Stoughton, Strickland, Taffe, Tanner, Tillman, Twichell, Tyner, Upson, Van Horn, Ward, Cadwalader C. Washburn, William B. Washburn, Welker, Wheeler, Williams, John T. Wilson, Winans, Witcher—108.

NAYS—Messrs. *Archer*, *Axtell*, Beatty, *Beck*, Benton, *Biggs*, *Bird*, Boyd, *Brooks*, *Burr*, *Calkin*, Clarke, *Cleveland*, *Crebs*, Davis, Deweese, *Dickinson*, *Eldridge*, Ferry, *Getz*, *Golladay*, *Griswold*, *Haldeman*, *Hambleton*, *Hamill*, Hawkins, *Hoag*, Hoar, *Holman*, *Johnson*, *Thomas L. Jones*, Julian, *Kerr*, Loughridge, *Marshall*, *Mayham*, *McCormick*, *McNeely*, *Moffet*, *Morgan*, *Mungen*, *Niblack*, Orth, Poland, *Potter*, *Randall*, *Reading*, *Reeves*, *Rice*, Rogers, *Schumaker*, *Slocum*, Worthington C. Smith, *Stiles*, *Stone*, *Swann*, *Sweeney*, *Trimble*, *Van Auken*, *Voorhees*, *Wells*, Whittemore, Wilkinson, Willard, *Eugene M. Wilson*, *Wood*, *Woodward*—67.

IN SENATE, *March* 31.

YEAS—Messrs. Abbott, Anthony, Boreman, Brownlow, Buckingham, Cameron, Carpenter, Chandler, Conkling, Corbett, Cragin, Drake, Edmunds, Fenton, Ferry, Gilbert, Grimes, Hamlin, Harlan, Harris, Howard, Kellogg, Morrill, Nye, Osborn, Patterson, Pomeroy, Pool, Pratt, Ramsey, Rice, Sawyer, Schurz, Scott, Spencer, Sumner, Tipton, Trumbull, Willey, Williams, Wilson, Yates—42.

NAYS—Messrs. *Bayard*, *Casserly*, *Davis*, *McCreery*, Sprague, *Stockton*, *Thurman*, *Vickers*—8.

PRELIMINARY VOTES.

The following is the action of each House in detail:

IN HOUSE.

1869, March 9—The bill to repeal the tenure-of-office act was introduced by Mr. Benjamin F. Butler, and read a first and second time and passed—yeas 138, nays 16, (not voting 39,) as follow:

YEAS—Messrs. *Adams*, Allison, Ambler, *Archer*, Asper, *Axtell*, Bailey, Banks, Beaman, *Beck*, Bennett, *Biggs*, Bingham, Blair, Boutwell, Bowen, Boyd, Buffinton, Burdett, *Burr*, Benjamin F. Butler, Roderick R. Butler, Cake, Cessna, Churchill, Clarke, *Cleveland*, Amasa Cobb, Clinton L. Cobb, Coburn, Cook, Conger, *Crebs*, Cullom, Davis, Dawes, Deweese, Dickey, *Dickinson*, Dyer, *Eldridge*, Ferry, Finckelnburg, Fisher, Fitch, Gilfillan, *Golladay*, *Griswold*, *Haldeman*, Hale, *Hamill*, Hawkins, Hawley, Hay, Heaton, Hill, *Hoag*, Hoar, *Holman*, Ingersoll, *Johnson*, Alexander H. Jones, *Thomas L. Jones*, Judd, Julian, Kelley, Kelsey, *Kerr*, Ketcham, Knapp, *Knott*, Lash, Logan, Loughridge, *Marshall*, *Mayham*, *McCormick*, McCrary, McGrew, *McNeely*, *Moffet*, Eliakim H. Moore, Jesse H. Moore, Morrill, Negley, *Niblack*, O'Neill, Orth, Packard, Packer, Paine, Palmer, Peters, Phelps, Pomeroy, *Potter*, Prosser, *Randall*, *Reading*, *Rice*, Rogers, Sargent, *Schumaker*, Scofield, Shanks, Sheldon, *Slocum*, John A. Smith, William J. Smith, Stevenson, *Stiles*, *Stone*, Stoughton, *Strader*, Strickland, *Swann*, *Sweeney*, *Trimble*, Twichell, Tyner, Upson, *Van Auken*, Van Horn, *Van Trump*, *Voorhees*, Cadwalader C. Washburn, William B. Washburn, Welker, *Wells*, Wheeler, Williams, *Eugene M. Wilson*, John T. Wilson, Winans, *Winchester*, Witcher, *Wood*, *Woodward*—138.

NAYS—Messrs. Arnell, Boles, Farnsworth, Ferriss, Hotchkiss, Jenckes, Lawrence, Maynard, Schenck, Worthington C. Smith, Stokes, Taffe, Tillman, Ward, Whittemore, Willard—16.

IN SENATE.

March 11—It was referred to the Committee on the Judiciary—yeas 34, nays 25, as follow:

YEAS—Messrs. Abbott, Anthony, Brownlow, Buckingham, Carpenter, Cattell, Chandler, Conkling, Cragin, Drake, Edmunds, Ferry, Gilbert, Hamlin, Harris, Howard, Howe, Morrill, *Norton*, Nye, Patterson, Pomeroy, Ramsey, Rice, Sawyer, Schurz, Scott, Stewart, Sumner, Tipton, Trumbull, Williams, Wilson, Yates—34.

NAYS—Messrs. *Bayard*, Boreman, Cameron, *Casserly*, Corbett, *Davis*, Fenton, Fessenden, Fowler, Grimes, *McCreery*, McDonald, Morton, Pool, Pratt, Robertson, Ross, Sherman, Spencer, Sprague, Stockton, Thayer, *Thurman*, *Vickers*, Warner—25.

March 24—Mr. Trumbull reported the bill from the Committee on the Judiciary, amended so as to strike out all after the enacting clause and insert as follows:

That the 1st and 2d sections of an act entitled "An act regulating the tenure of certain civil officers," passed March 2, 1867, be, and the same are hereby, repealed, and in lieu of said repealed sections the following are hereby enacted: That every person holding any civil office to which he has been or may hereafter be appointed, by and with the advice and consent of the Senate, and who shall have become qualified to act therein, shall be entitled to hold such office during the term for which he shall have been appointed, unless sooner removed by and with the advice and consent of the Senate, or by the appointment, with the like advice and consent,

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of a successor in his place, except as herein otherwise provided.

SEC. 2 *And be it further enacted*, That during any recess of the Senate the President is hereby empowered, in his discretion, to suspend any civil officer appointed by and with the advice and consent of the Senate, except judges of the United States courts until the end of the next session of the Senate, and to designate some suitable person subject to be removed in his discretion by the designation of another to perform the duties of such suspended officer in the meantime; and such person so designated shall take oaths and give bonds required by law to be taken and given by the suspended officer, and shall during the time he performs his duties be entitled to the salary and emoluments of such office, no part of which shall belong to the officer suspended. It shall be the duty of the President within thirty days after the commencement of each session of the Senate, except for any office which in his opinion ought not to be filled, to nominate persons to fill all vacancies in office which existed at the meeting of the Senate, whether temporarily filled or not, and also in the place of all officers suspended, and if the Senate during such session shall refuse to advise and consent to an appointment in the place of any suspended officer, and shall also refuse by vote to assent to his suspension, then, and not otherwise, such officer, at the end of the session, shall be entitled to resume the possession of the office from which he was suspended, and afterwards to discharge its duties and receive its emoluments as though no such suspension had taken place.

Which was agreed to—yeas 37, nays 15, as follow:

YEAS—Messrs. Abbott, Anthony, Boreman, Brownlow, Buckingham, Carpenter, Cattell, Chandler, Conkling, Cragin, Drake, Edmunds, Ferry, Gilbert, Hamlin, Harlan, Harris, Howard, Kellogg, Morrill, Osborn, Patterson, Pratt, Ramsey, Rice, Sawyer, Schurz, Scott, Spencer, Stewart, Sumner, Tipton, Trumbull, Willey, Williams, Wilson, Yates—37.

NAYS—Messrs. *Bayard*, *Casserly*, *Davis*, Fessenden, Fowler, Grimes, *McCreery*, McDonald, *Norton*, Ross, Sprague, *Stockton*, *Thurman*, *Vickers*, Warner—15.

IN HOUSE.

March 25—A motion to refer to the Committee on the Judiciary was agreed to—yeas 94, nays 79, not voting 23.

March 26—This vote was reconsidered, without a division, and the House refused to concur in the amendment of the Senate—yeas 70, nays 99, (not voting 27,) as follow:

YEAS—Messrs. Ames, Armstrong, Asper, Bailey, Beaman, Beatty, Benton, Bingham, Boles, Burdett, Roderick R. Butler, Cessna, Churchill, Clinton L. Cobb, Coburn, Cowles, Dixon, Dockery, Donley, Duval, Ela, Farnsworth, Ferriss, Finkelnburg, Garfield, Gilfillan, Hawley, Hill, Hooper, Hotchkiss, Ingersoll, Jenckes, Kelley, Kelsey, Ketcham, Knapp, Laflin, Lash, William Lawrence, Lynch, Maynard, McCarthy, McGrew, Mercur, Eliakim H. Moore, William Moore, Packer, Poland, Pomeroy, Prosser, Roots, Sanford, Sargent, Sawyer, Schenck, Scofield, Shanks, William J. Smith, William Smyth, Stevens, Stoughton, Strickland, Taffe, Tillman, Twichell, Ward, Welker, Wheeler, John T. Wilson, Winans—70.

NAYS—Messrs. Allison, Ambler, *Archer*, *Axtell*, Banks, *Beck*, *Biggs*, *Bird*, Blair, Boyd, *Brooks*, Buffinton, *Burr*, Benjamin F. Butler, *Calkin*, Clarke, *Cleveland*, Amasa Cobb, Cook, Conger, *Crebs*, Cullom, Davis, Dawes, Deweese, Dickey, *Dickinson*, Dyer, *Eldridge*, Ferry, Fisher, *Fox*, *Getz*, *Golladay*, *Griswold*, *Haight*, *Haldeman*, *Hambleton*, Hawkins, Hay, Heaton, *Hoag*, Hoar, *Holman*, Hopkins, *Johnson*, Alexander H. Jones, *Thomas L. Jones*, Julian, *Kerr*, *Knott*, Logan, Loughridge, *Marshall*, *Mayham*, McCrary, *McNeely*, *Moffet*, Jesse H. Moore, *Morgan*, *Mungen*, *Niblack*, O'Neill, Orth, Packard, Paine, Palmer, Phelps, *Randall*, *Reading*, *Reeves*, *Rice*, Rogers, *Schumaker*, Sheldon, *Slocum*, John A. Smith, *Joseph S. Smith*, Stevenson, *Swann*, *Sweeney*, Tanner, Townsend, *Trimble*, Tyner, Upson, Van Horn, *Van Trump*, Cadwalader C. Washburn, William B. Washburn, *Wells*, Whittemore, Wilkinson, Williams, *Eugene M. Wilson*, *Winchester*, Witcher, *Wood*, *Woodward*—99.

IN SENATE.

March 30—A motion to recede from its amendments was lost—yeas 20, nays 37, as follow:

YEAS—Messrs. *Bayard*, *Casserly*, Cole, *Davis*, Fenton, Fessenden, Fowler, Grimes, *McCreery*, McDonald, Morton, Pool, Robertson, Ross, Sprague, *Stockton*, Thayer, *Thurman*, *Vickers*, Warner—20.

NAYS—Messrs. Abbott, Anthony, Boreman, Brownlow, Buckingham, Cameron, Carpenter, Cattell, Conkling, Cragin, Drake, Edmunds, Ferry, Gilbert, Hamlin, Harlan, Harris, Howard, Howe, Kellogg, Morrill, Nye, Patterson, Pomeroy, Pratt, Ramsey, Rice, Sawyer, Schurz, Scott, Spencer, Sumner, Tipton, Trumbull, Willey, Williams, Wilson—37.

A committee of conference was then voted, and Messrs. Trumbull, Edmunds, and Grimes appointed conferees.

IN HOUSE.

March 30—A motion that the House recede from its disagreement was lost—yeas 61, nays 106. The conference was granted, and Messrs. Benjamin F. Butler, Cadwalader C. Washburn, and Bingham were appointed the managers.

March 31—The committee of conference reported, recommending certain amendments, (to make the bill stand as it finally passed,) and the report was adopted—in the House, yeas 108, nays 67; in the Senate, yeas 42, nays 8, as printed above.

On the Effect of the XVth Amendment.

1869, March 22—Mr. Johnson moved a suspension of the rules so as to enable him to submit this resolution:

Resolved That in passing the resolution for the fifteenth amendment to the Constitution of the United States this house never intended that Chinese or Mongolians should become voters.

The motion to suspend the rules was lost—yeas 42, nays 106, not voting 48. The YEAS were Messrs. *Archer*, *Axtell*, *Bird*, *Brooks*, *Burr*, *Calkin*, *Crebs*, *Dickinson*, *Eldridge*, Fitch, *Golladay*, *Haight*, *Haldeman*, *Hambleton*, *Hamill*, Hawkins, *Holman*, *Johnson*, *Thomas L. Jones*, *Kerr*, *Knott*, *Mayham*, *McNeely*, *Potter*, *Randall*, *Reading*, *Reeves*, Sargent, *Slocum*, *Joseph S. Smith*, William J. Smith, *Stiles*, *Stone*, *Strader*, *Swann*, *Van Auken*, *Van Trump*, *Wells*, *Eugene M. Wilson*, *Winchester*, *Wood*, *Woodward*.

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XLIII.

PRESIDENT GRANT'S INAUGURAL ADDRESS,

AND MESSAGE ON RECONSTRUCTION, AND THE OFFICIAL PROCLAMATIONS OF THE YEAR.

President Grant's Inaugural Address, March 4th, 1869.

Citizens of the United States:

Your suffrages having elected me to the office of President of the United States, I have, in conformity to the Constitution of our country, taken the oath of office prescribed therein. I have taken this oath without mental reservation, and with the determination to do to the best of my ability all that it requires of me. The responsibilities of the position I feel, but accept them without fear. The office has come to me unsought; I commence its duties untrammelled. I bring to it a conscious desire and determination to fill it to the best of my ability to the satisfaction of the people.

On all leading questions agitating the public mind I will always express my views to Congress, and urge them according to my judgment; and, when I think it advisable, will exercise the constitutional privilege of interposing a veto to defeat measures which I oppose. But all laws will be faithfully executed whether they meet my approval or not.

I shall on all subjects have a policy to recommend, but none to enforce against the will of the people. Laws are to govern all alike, those opposed as well as those who favor them. I know no method to secure the repeal of bad or obnoxious laws so effective as their stringent execution.

The country having just emerged from a great rebellion, many questions will come before it for settlement in the next four years which preceding Administrations have never had to deal with. In meeting these it is desirable that they should be approached calmly, without prejudice, hate or sectional pride, remembering that the greatest good to the greatest number is the object to be attained.

This requires security of person, property, and free religious and political opinion in every part of our common country, without regard to local prejudice. All laws to secure these ends will receive my best efforts for their enforcement.

A great debt has been contracted in securing to us and our posterity the Union. The payment of this, principal and interest, as well as the return to a specie basis, as soon as it can be accomplished without material detriment to the debtor class or to the country at large, must be provided for. To protect the national honor every dollar of government indebtedness should be paid in gold, unless otherwise expressly stipulated in the contract. Let it be understood that no repudiator of one farthing of our public debt will be trusted in public place, and it will go far towards strengthening a credit which ought to be the best in the world, and will ultimately enable us to replace the debt with bonds bearing less interest than we now pay. To this should be added a faithful collection of the revenue, a strict accountability to the treasury for every dollar collected, and the greatest practicable retrenchment in expenditure in every department of government.

When we compare the paying capacity of the country now—with the ten States in poverty from the effects of war, but soon to emerge, I trust, into greater prosperity than ever before—with its paying capacity twenty-five years ago, and calculate what it probably will be twenty-five years hence, who can doubt the feasibility of paying every dollar then with more ease than we now pay for useless luxuries? Why, it looks as though Providence had bestowed upon us a strong box in the precious metals locked up in the sterile mountains of the far west, and which we are now forging the key to unlock, to meet the very contingency that is now upon us.

Ultimately it may be necessary to insure the facilities to reach these riches, and it may be necessary also that the general government should give its aid to secure this access. But that should only be when a dollar of obligation to pay secures precisely the same sort of dollar to use now, and not before. Whilst the question of specie payments is in abeyance, the prudent business man is careful about contracting debts payable in the distant future. The nation should follow the same rule. A prostrate commerce is to be rebuilt and all industries encouraged.

The young men of the country, those who from their age must be its rulers twenty-five years hence, have a peculiar interest in maintaining the national honor. A moment's reflection as to what will be our commanding influence among the nations of the earth in their day, if they are only true to themselves, should inspire them with national pride. All divisions, geographical, political, and religious, can join in this common sentiment. How the public debt is to be paid, or specie payments resumed, is not so important as that a plan should be adopted and acquiesced in.

A united determination to do is worth more than divided counsels upon the method of doing. Legislation upon this subject may not be necessary now, nor even advisable, but it will be when the civil law is more fully restored in all parts of the country, and trade resumes its wonted channels.

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It will be my endeavor to execute all laws in good faith, to collect all revenues assessed, and to have them properly accounted for and economically disbursed. I will, to the best of my ability, appoint to office those only who will carry out this design.

In regard to foreign policy, I would deal with nations as equitable law requires individuals to deal with each other, and I would protect the law-abiding citizen, whether of native or foreign birth, wherever his rights are jeopardized or the flag of our country floats. I would respect the rights of all nations, demanding equal respect for our own. If others depart from this rule in their dealings with us, we may be compelled to follow their precedent.

The proper treatment of the original occupants of this land, the Indians, is one deserving of careful study. I will favor any course toward them which tends to their civilization and ultimate citizenship.

The question of suffrage is one which is likely to agitate the public so long as a portion of the citizens of the nation are excluded from its privileges in any State. It seems to me very desirable that this question should be settled now, and I entertain the hope and express the desire that it may be by the ratification of the fifteenth article of amendment to the Constitution.

In conclusion, I ask patient forbearance one toward another throughout the land, and a determined effort on the part of every citizen to do his share toward cementing a happy Union, and I ask the prayers of the nation to Almighty God in behalf of this consummation.

President Grant's Message respecting the Reconstruction of Virginia and Mississippi, April 7, 1869.

To the Senate and House of Representatives:

While I am aware that the time in which Congress proposes now to remain in session is very brief, and that it is its desire, as far as is consistent with the public interest, to avoid entering upon the general business of legislation, there is one subject which concerns so deeply the welfare of the country that I deem it my duty to bring it before you.

I have no doubt that you will concur with me in the opinion that it is desirable to restore the States which were engaged in the rebellion to their proper relations to the Government and the country at as early a period as the people of those States shall be found willing to become peaceful and orderly communities, and to adopt and maintain such constitutions and laws as will effectually secure the civil and political rights of all persons within their borders. The authority of the United States, which has been vindicated and established by its military power, must undoubtedly be asserted for the absolute protection of all its citizens in the full enjoyment of the freedom and security which is the object of a republican government. But whenever the people of a rebellious State are ready to enter in good faith upon the accomplishment of this object, in entire conformity with the constitutional authority of Congress, it is certainly desirable that all causes of irritation should be removed as promptly as possible, that a more perfect union may be established, and the country be restored to peace and prosperity.

The convention of the people of Virginia which met in Richmond on Tuesday, December 3, 1867, framed a constitution for that State, which was adopted by the convention on the 17th of April, 1868, and I desire respectfully to call the attention of Congress to the propriety of providing by law for the holding of an election in that State at some time during the months of May and June next, under the direction of the military commander of that district, at which the question of the adoption of that constitution shall be submitted to the citizens of the State; and if this should seem desirable, I would recommend that a separate vote be taken upon such parts as may be thought expedient, and that at the same time and under the same authority there shall be an election for the officers provided under such constitution, and that the constitution, or such parts thereof as shall have been adopted by the people, be submitted to Congress on the first Monday of December next for its consideration, so that if the same is then approved the necessary steps will have been taken for the restoration of the State of Virginia to its proper relations to the Union. I am led to make this recommendation from the confident hope and belief that the people of that State are now ready to co-operate with the national government in bringing it again into such relations to the Union as it ought as soon as possible to establish and maintain and to give to all its people those equal rights under the law which were asserted in the Declaration of Independence in the words of one of the most illustrious of its sons.

I desire also to ask the consideration of Congress to the question whether there is not just ground for believing that the constitution framed by a convention of the people of Mississippi for that State, and once rejected,* might not be again submitted to the people of that State in like manner, and with the probability of the same result.

U. S. GRANT.

WASHINGTON, D. C., *April* 7, 1869.

Final Certificate of Mr. Secretary Seward respecting the Ratification of the Fourteenth Amendment to the Constitution, July 28, 1868.

BY WILLIAM H. SEWARD, SECRETARY OF STATE OF THE UNITED STATES.

To all to whom these presents may come, greeting:

Whereas by an act of Congress passed on the 20th of April, 1818, entitled "An act to provide for the publication of the laws of the United States and for other purposes," it is declared, that whenever official notice shall have been received at the Department of State that any amendment which heretofore has been and hereafter may be proposed to the Constitution of the United States has been adopted according to the provisions of the Constitution, it shall be the duty of the said Secretary of State forthwith to cause the said amendment to be published in the newspapers authorized to promulgate the laws,

*The vote was taken June 22, 1868, and, as transmitted by Gen. Gillem, was as follows: For the constitution, 56,231; against it, 63,860. Number of registered voters, 155,351.

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with his certificate, specifying the States by which the same may have been adopted, and that the same has become valid to all intents and purposes as a part of the Constitution of the United States;

And whereas the Congress of the United States, on or about the 16th day of June, 1866, submitted to the legislatures of the several States a proposed amendment to the Constitution in the following words, to wit:

JOINT RESOLUTION proposing an amendment to the Constitution of the United States.

Be it resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, (two thirds of both Houses concurring,) That the following article be proposed to the legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three-fourths of said legislatures, shall be valid as part of the Constitution, namely:

ARTICLE XIV.

SEC. 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the States wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

SEC. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, representatives in Congress, the executive and judicial officers of a State or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being twenty one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

SEC. 3. No person shall be a senator or representative in Congress, or elector of President and Vice-President or hold any office, civil or military under the United States, or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two thirds of each House remove such disability.

SEC 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

SEC 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article. SCHUYLER COLFAX,

Speaker of the House of Representatives.

LA FAYETTE S. FOSTER,

President of the Senate pro tempore.

Attest:

EDWD. MCPHERSON,

Clerk of the House of Representatives.

J. W. FORNEY,

Secretary of the Senate.

And whereas the Senate and House of Representatives of the Congress of the United States, on the 21st day of July, 1868, adopted and transmitted to the Department of State a concurrent resolution, which concurrent resolution is in the words and figures following, to wit:

IN SENATE OF THE UNITED STATES,

July 21, 1868.

Whereas the Legislatures of the States of Connecticut, Tennessee, New Jersey, Oregon, Vermont, West Virginia, Kansas, Missouri, Indiana, Ohio, Illinois, Minnesota, New York, Wisconsin, Pennsylvania, Rhode Island, Michigan, Nevada, New Hampshire, Massachusetts, Nebraska, Maine, Iowa, Arkansas, Florida, North Carolina, Alabama, South Carolina, and Louisiana, being three-fourths and more of the several States of the Union, have ratified the fourteenth article of amendment to the Constitution of the United States, duly proposed by two-thirds of each House of the Thirty-Ninth Congress; therefore,

Resolved by the Senate, (the House of Representatives concurring) That said fourteenth article is hereby declared to be a part of the Constitution of the United States, and it shall be duly promulgated as such by the Secretary of State.

Attest: GEORGE C. GORHAM,

Secretary.

And whereas official notice has been received at the Department of State that the legislatures of the several States next hereinafter named have, at the times respectively herein mentioned, taken the proceedings hereinafter recited upon or in relation to the ratification of the said proposed amendment, called article fourteenth, namely:

The Legislature of Connecticut ratified the amendment June 30, 1866; the Legislature of New Hampshire ratified it July 7, 1866; the Legislature of Tennessee ratified it July 19, 1866; the Legislature of New Jersey ratified it September 11, 1866, and the Legislature of the same State passed a resolution in April, 1868, to withdraw the consent to it; the Legislature of Oregon ratified it September 19, 1866; the Legislature of Texas rejected it November 1, 1866; the Legislature of Vermont ratified it on or previous to November 9, 1866; the Legislature of Georgia rejected it November 13, 1866, and the Legisla-

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ture of the same State ratified it July 21, 1868; the Legislature of North Carolina rejected it December 4, 1866, and the Legislature of the same State ratified it July 4, 1868; the Legislature of South Carolina rejected it December 20, 1866, and the Legislature of the same State ratified it July 9, 1868; the Legislature of Virginia rejected it January 9, 1867; the Legislature of Kentucky rejected it January 10, 1867; the Legislature of New York ratified it January 10, 1867; the Legislature of Ohio ratifi·d it January 11, 1867, and the Legislature of the same State passed a resolution in January, 1868, to withdraw its consent to it; the Legislature of Illinois ratified it January 15, 1867; the Legislature of West Virginia ratified it January 16, 1867; the Legislature of Kansas ratified it January 18, 1867; the Legislature of Maine ratified it January 19, 1867; the Legislature of Nevada ratified it January 22, 1867; the Legislature of Missouri ratified it on or previous to January 26, 1867; the Legislature of Indiana ratified it January 29, 1867; the Legislature of Minnesota ratified it February 1, 1867; the Legislature of Rhode Island ratified it February 7, 1867; the Legislature of Delaware rejected it February 7, 1867; the Legislature of Wisconsin ratified it February 13, 1867; the Legislature of Pennsylvania ratified it February 13, 1867; the Legislature of Michigan ratified it February 15, 1867; the Legislature of Massachusetts ratified it March 20, 1867; the Legislature of Maryland rejected it March 23, 1867; the Legislature of Nebraska ratified it June 15, 1867; the Legislature of Iowa ratified it April 3, 1868; the Legislature of Arkansas ratified it April 6, 1868; the Legislature of Florida ratified it June 9, 1868; the Legislature of Louisiana ratified it July 9, 1868; and the Legislature of Alabama ratified it July 13, 1868.

Now, therefore, be it known that I, William H. Seward, Secretary of State of the United States, in execution of the aforesaid act, and of the aforesaid concurrent resolution of the 21st of July, 1868, and in conformance thereto, do hereby direct the said proposed amendment to the Constitution of the United States to be published in the newspapers authorized to promulgate the laws of the United States, and I do hereby certify that the said proposed amendment has been adopted in the manner hereinbefore mentioned by the States specified in the said concurrent resolution, namely, the States of Connecticut, New Hampshire, Tennessee, New Jersey, Oregon, Vermont, New York, Ohio, Illinois, West Virginia, Kansas, Maine, Nevada, Missouri, Indiana, Minnesota, Rhode Island, Wisconsin, Pennsylvania, Michigan, Massachusetts, Nebraska, Iowa, Arkansas, Florida, North Carolina, Louisiana, South Carolina, Alabama, and also by the Legislature of the State of Georgia; the States thus specified being more than three-fourths of the States of the United States.

And I do further certify, that the said amendment has become valid to all intents and purposes as a part of the Constitution of the United States.

In testimony whereof I have hereunto set my hand and caused the seal of the Department of State to be affixed.

Done at the city of Washington, this 28th day of July, in the year of our Lord 1868, and of the independence of the [SEAL.] United States of America the ninety-third.

WILLIAM H. SEWARD,
Secretary of State.

[For previous certificates see Manual of 1868, p. 121, or Hand-Book of Politics, p. 379.]

President Johnson's Proclamation of General Amnesty, December 25, 1868.

Whereas the President of the United States has heretofore set forth several proclamations, offering amnesty and pardon to persons who had been or were concerned in the late rebellion against the lawful authority of the Government of the United States, which proclamations were severally issued on the 8th day of December, 1863, on the 26th day of March, 1864, on the 29th day of May, 1865, on the 7th day of September, 1867, and on the 4th day of July, in the present year;

And whereas the authority of the federal government having been re-established in all the States and Territories within the jurisdiction of the United States, it is believed that such prudential reservations and exceptions as of the dates of said several proclamations were deemed necessary and proper may now be wisely and justly relinquished, and that a universal amnesty and pardon for participation in said rebellion extended to all who have borne any part therein will tend to secure permanent peace, order, and prosperity throughout the land, and to renew and fully restore confidence and fraternal feeling among the whole people, and their respect and attachment to the national government, designed by its patriotic founders for general good:

Now, therefore, be it known that I, ANDREW JOHNSON, President of the United States, by virtue of the power and authority in me vested by the Constitution, and in the name of the sovereign people of the United States, do hereby proclaim and declare unconditionally, and without reservation, to all and to every person who directly or indirectly participated in the late insurrection or rebellion, a full pardon and amnesty for the offence of treason against the United States, or of adhering to their enemies during the late civil war, with restoration of all rights, privileges, and immunities under the Constitution and the laws which have been made in pursuance thereof.

In testimony whereof I have signed these presents with my hand, and have caused the seal of the United States to be hereunto affixed.

Done at the city of Washington, the 25th day of December, in the year of our Lord 1868, and of the independence of the [SEAL.] United States of America the ninety-third. ANDREW JOHNSON.

By the President:

F. W. SEWARD,
Acting Secretary of State.

[For previous proclamations of amnesty, see Manual of 1867, p. 9; Manual of 1868, pp. 82-84, or Hand-Book of Politics, pp. 9, 342-344.]

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Message Respecting this Proclamation, January 19, 1869.

To the Senate of the United States:

The resolution adopted on the 5th instant, requesting the President "to transmit to the Senate a copy of any proclamation of amnesty made by him since the last adjournment of Congress, and also to communicate to the Senate by what authority of law the same was made," has been received.

I accordingly transmit herewith a copy of a proclamation dated the 25th day of December last. The authority of law by which it was made is set forth in the proclamation itself, which expressly affirms that it was issued "by virtue of the power and authority in me vested by the Constitution and in the name of the sovereign people of the United States," and proclaims and declares "unconditionally, and without reservation, to all and to every person who directly or indirectly participated in the late insurrection or rebellion, a full pardon and amnesty for the offence of treason against the United States, or of adhering to their enemies during the late civil war, with restoration of all rights, privileges, and immunities under the Constitution, and the laws which have been made in pursuance thereof."

The federal Constitution is understood to be, and is regarded by the Executive, as the supreme law of the land. The second section of article second of that instrument provides that the President "shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment." The proclamation of the 25th ultimo is in strict accordance with the judicial expositions of the authority thus conferred upon the Executive, and, as will be seen by reference to the accompanying papers, is in conformity with the precedent established by Washington in 1795, and followed by President Adams in 1800, Madison in 1815, and Lincoln in 1863, and by the present Executive in 1865, 1867, and 1868.

ANDREW JOHNSON.

WASHINGTON, D. C., *January* 18, 1869.

President Grant's Proclamation for the Election in Virginia, May 14, 1869.

In pursuance of the provisions of the act of Congress approved April 10, 1869, I hereby designate the 6th day of July, 1869, as the time for submitting the constitution passed by the convention which met in Richmond, Virginia, on Tuesday, the 3d day of December, 1867, to the voters of said State registered at the date of such submission, viz., July 6, 1869, for ratification or rejection.

And I submit to a separate vote the fourth clause of section 1, article III, of said constitution, which is in the following words:

Every person who has been a senator or representative in Congress, or elector of President or Vice-President, or who held any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. This clause shall include the following officers: Governor, lieutenant governor, secretary of State, auditor of public accounts, second auditor, register of the land office, State treasurer, attorney general, sheriffs, sergeant of a city or town, commissioner of the revenue, county surveyor, constables, overseers of the poor, commissioner of the board of public works, judges of the supreme court, judges of the circuit court, judge of the court of hustings, justices of the county courts, mayor, recorder, aldermen, councilmen of a city or town, coroners, escheators, inspectors of tobacco, flour, &c., and clerks of the supreme, district, circuit, and county courts, and of the court of hustings, and attorneys for the Commonwealth; provided that the legislature may, by a vote of three fifths of both houses, remove the disabilities incurred by this clause from any person included therein by a separate vote in each case.

And I also submit to a separate vote the 7th section of article III of the said constitution, which is in the words following:

In addition to the foregoing oath of office, the governor, lieutenant governor, members of the General Assembly, Secretary of State, auditor of public accounts, State treasurer, attorney general, and all persons elected to any convention to frame a constitution for this State, or to amend or revise this constitution in any manner, and the mayor and council in any city or town shall, before they enter on the duties of their respective offices, take and subscribe to the following oath or affirmation, provided the disabilities therein contained may be individually removed by a three-fifths vote of the General Assembly: "I, ———, do solemnly swear (or affirm) that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have never sought or accepted, or attempted to exercise, the functions of any office whatever under any authority or pretended authority in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power or constitution within the United States hostile or inimical thereto. And I do further swear (or affirm) that to the best of my knowledge and ability I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter, so help me God." The above oath shall also be taken by all the city and county officers before entering upon their duties, and by all other State officers not included in the above provision.

I direct the vote to be taken upon each of the above-cited provisions alone, and upon the other portions of the said constitution in the following manner, viz.:

Each voter favoring the ratification of the con-

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stitution (excluding the provisions above quoted) as framed by the convention of December 3, 1867, shall express his judgment by voting

FOR THE CONSTITUTION.

Each voter favoring the rejection of the constitution (excluding the provisions above quoted) shall express his judgment by voting

AGAINST THE CONSTITUTION.

Each voter will be allowed to cast a separate ballot for or against either or both of the provisions above quoted.

In testimony whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington, this 14th day of May, in the year of our Lord 1869, and of the independence of the United States of America the ninety-third.

[SEAL.]

U. S. GRANT.

By the President:

HAMILTON FISH,
Secretary of State.

Respecting Wages of Labor, May 19, 1869.

Whereas the act of Congress, approved June 25, 1868, constituted on and after that date eight hours a day's work for all laborers, workmen, and mechanics employed by or on behalf of the Government of the United States, and repealed all acts and parts of acts inconsistent therewith:

Now, therefore, I, Ulysses S. Grant, President of the United States, do hereby direct that, from and after this date, no reduction shall be made in the wages paid by the Government by the day to such laborers, workmen, and mechanics on account of such reduction of the hours of labor.

In testimony whereof I have hereto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington, this 19th day of May, in the year of Lord 1869, and of the independence of the United States the ninety-third.

[SEAL.]

U. S. GRANT.

By the President:

HAMILTON FISH,
Secretary of State.

Relative to Duties upon Merchandize in French Vessels, June 12, 1869.

Whereas satisfactory evidence has been received by me from his majesty the Emperor of France, through the Count Faverney, his chargé d'affaires, that on and after this date the discriminating duties heretofore levied in French ports upon merchandize imported from the countries of its origin in vessels of the United States are to be discontinued and abolished:

Now, therefore, I, U. S. Grant, President of the United States of America, by virtue of the authority vested in me by an act of Congress of the 7th day of January, 1824, and by an act in addition thereto of the 24th day of May, 1828, do hereby declare and proclaim, that on and after this date, so long as merchandize imported from countries of its origin into French ports in vessels belonging to citizens of the United States is admitted into French ports on the terms aforesaid, the discriminating duties heretofore levied upon merchandize imported from the countries of its origin into ports of the United States in French vessels shall be, and are hereby, discontinued and abolished.

In testimony whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington, this 12th day of June, in the year of our Lord 1869, and of the independence of the United States of America the ninety-third.

[SEAL.]

U. S. GRANT.

By the President:

HAMILTON FISH,
Secretary of State.

The following is the official notification containing the evidence upon which the foregoing proclamation was issued:

[Translation.]

LEGATION OF FRANCE TO THE U. S.,
WASHINGTON, *June* 12, 1869.

MR. SECRETARY OF STATE: In conformity with the desire expressed in the note addressed by you to M. Berthemy, of the 19th of March last, I have requested of the Emperor's government to be informed by telegraphic dispatch of the abolition of discriminating duties on merchandize imported into France from the countries of its origin in American vessels.

I have the honor to send you herewith a copy of the notice which I have just received on this subject from his excellency the Minister of Foreign Affairs. This shows that discriminating duties upon merchandize imported into the empire under the American flag have been abolished from and after the 12th of June, 1869. Consequently, pursuant to what has been agreed between us, I pray your excellency to have the goodness to take the necessary measures in order that reciprocal treatment may at once be granted France by the Government of the United States.

Accept, Mr. Secretary of State, the assurances of my high consideration.

COUNT DE FAVERNEY.

To Hon. HAMILTON FISH,
Secretary of State.

[Translation.]

DATED —, 1869. RECEIVED IN WASHINGTON JUNE 12.

To the Chargé d'Affaires of France, Washington:

Discriminating duties on merchandize imported from the countries of its origin in American vessels have this day been discontinued in the ports of the empire. Ask for reciprocity.

THE MINISTER
PARIS. *for Foreign Affairs.*

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XLIV.

ORDERS AND PAPERS ON RECONSTRUCTION.

ADDITIONAL MILITARY ORDERS UNDER THE RECONSTRUCTION ACTS, AND THE NEW CONSTITUTION OF TEXAS.

Orders and Papers relating to Reconstruction, and General Action under the Reconstruction Laws.*

HEADQUARTERS OF THE ARMY,
ADJUTANT GENERAL'S OFFICE,
WASHINGTON, *July* 28, 1868.

General Orders, No. 55:

The following orders from the War Department, which have been approved by the President, are published for the information and government of the army and of all concerned:

The commanding generals of the second, third, fourth, and fifth military districts having officially reported that the States of Arkansas, North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida have fully complied with the acts of Congress known as the reconstruction acts, including the act passed June 22, 1868, entitled "An act to admit the State of Arkansas to representation in Congress," and the act passed June 25, 1868, entitled "An act to admit the States of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida to representation in Congress," and that, consequently, so much of the act of March 2, 1867, and the acts supplementary thereto, as provide for the organization of military districts, subject to the military authority of the United States, as therein provided, has become inoperative in said States, and that the commanding generals have ceased to exercise in said States the military powers conferred by said acts of Congress: therefore, the following changes will be made in the organization and command of military districts and geographical departments:

I. The second and third military districts having ceased to exist, the States of North Carolina, South Carolina, Georgia, Alabama, and Florida, will constitute the department of the South; Major General George G. Meade to command. Headquarters at Atlanta, Georgia.

II. The fourth military district will now consist only of the State of Mississippi, and will continue to be commanded by Brevet Major General A. C. Gillem.

III. The fifth military district will now consist of the State of Texas, and will be commanded by Brevet Major General J. J. Reynolds. Headquarters at Austin, Texas.

IV. The States of Louisiana and Arkansas will constitute the department of Louisiana. Brevet Major General L. H. Rousseau is assigned to the command. Headquarters at New Orleans, Louisiana. Until the arrival of General Rousseau at New Orleans, Brevet Major General Buchanan will command the department.

V. Brevet Major General George Crooke is assigned, according to his brevet of major general, to command the department of the Columbia, in place of Rousseau, relieved.

VI. Brevet Major General E. R. S. Canby is reassigned to command the department of Washington.

VII. Brevet Major General Edward Hatch, colonel 9th cavalry, will relieve General Buchanan as assistant commissioner of the Bureau of Refugees, Freedmen, and Abandoned Lands in Louisiana.

By command of General Grant.

E. D. TOWNSEND,
Assistant Adjutant General

ATTORNEY GENERAL'S OFFICE,
August 20, 1868.

ALEXANDER MAGRUDER, Esq.,
United States Marshal Northern District of Florida, St. Augustine, Florida.

SIR: Your letter of the 12th instant reached me yesterday, and has received an attentive consideration. Colonel Sprague's information to you must have been based upon his own construction of General Meade's order lately issued, and not upon any special instructions from the President to Colonel Sprague, through General Meade or otherwise, as no such special instructions have been issued by the President. You add: "Under some circumstances I should be glad to have the aid of the military, and, if practicable, would be pleased to have instructions given to the military to aid me when necessary. I ask this, as Colonel Sprague informs me under his instructions he cannot do so."

This desire and request for the aid of the military under certain circumstances I understand to refer to the occasional necessity which may arise that the marshal should have the means of obtaining the aid and assistance of a more considerable force than his regular deputies supply for execution of legal process in his district.

The 27th section of the judiciary act of 1789 establishes the office of marshal, and names among his duties and powers the following: "And to execute throughout the district all lawful precepts directed to him and issued under the authority of the United States, and he shall have power to command all necessary assistance in the execution of his duty, and to appoint, as

* Continuation of the record from p. 343 Hand-Book of Politics for 1868, or p. 87 Political Manual of 1868.

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there may be occasion, one or more deputies."—(1st ¶ 87.)

You will observe from this that the only measure of the assistance which you have power to command is its necessity for the execution of your duty. and upon your discreet judgment, under your official responsibility, the law reposes the determination of what force each particular necessity requires. This power of the marshal is equivalent to that of a sheriff, and with either embraces, as a resort in necessity, the whole power of the precinct (county or district) over which the officer's authority extends. In defining this power Attorney General Cushing—and, as I understand the subject, correctly—says it "comprises every person in the district or county above the age of fifteen years, whether civilians or not, and including the military of all denominations—militia, soldiers, marines—all of whom are alike bound to obey the commands of a sheriff or marshal."

While, however, the law gives you this "power to command all necessary assistance," and the military within your district are not exempt from obligation to obey, in common with all the citizens, your summons, in case of necessity, you will be particular to observe that this high and responsible authority is given to the marshal only in aid of his duty "to execute throughout the district all lawful precepts directed to him and issued under the authority of the United States," and only in case of *necessity* for this extraordinary aid. The military persons obeying this summons of the marshal will act in subordination and obedience to the civil officer, the marshal in whose aid in the execution of process they are called, and only to the effect of securing its execution.

The special duty and authority in the execution of process issued to you must not be confounded with the duty and authority of suppressing disorder and preserving the peace, which, under our Government, belongs to the civil authorities of the States, and not to the civil authorities of the United States. Nor are this special duty and authority of the marshal in executing process issued to him to be confounded with the authority and duty of the President of the United States in the specific cases of the Constitution and under the statutes to protect the States against domestic violence, or with his authority and duty under special statutes to employ military force in subduing combinations in resistance to the laws of the United States; for neither of these duties or authorities is shared by the subordinate officers of the Government, except when and as the same may be specifically communicated to them by the President.

I have thus called your attention to the general considerations bearing upon the subject to which your letter refers, for the purpose of securing a due observance of the limits of your duty and authority in connection therewith. Nothing can be less in accordance with the nature of our Government or the disposition of our people than a frequent or ready resort to military aid in the execution of the duties confided to civil officers. Courage, vigor, and intrepidity are appropriate qualities for the civil service which the marshals of the United States are expected to perform, and a reinforcement of their power by extraordinary means is permitted by the law only in extraordinary emergencies.

If it shall be thought that any occasion at any time exists for instructions to the military authorities of the United States within any of the States in connection with the execution of process of the courts of the United States, these instructions will be in accordance with the exigency then appearing.

I am, sir, very respectfully, your obedient servant,

WM. M. EVARTS,
Attorney General.

HEADQUARTERS OF THE ARMY,
ADJUTANT GENERAL'S OFFICE,
WASHINGTON, *August* 25, 1868.

Major General G. G. MEADE, *U. S. A.*,
Commanding Department of South,
Atlanta, Georgia.

GENERAL: In reply to your request for instruction relative to the use of troops under your command in aid of the civil authorities, the Secretary of War directs to be furnished for your information and government the enclosed copies of a letter of instructions to Brevet Major General Buchanan, commanding department of Louisiana, dated August 10, 1868, and of a letter from the Attorney General of the United States to Alexander Magruder, esq., United States marshal, northern district of Florida, dated August 20, 1868.

The letter to General Buchanan indicates the conditions under which the military power of the United States may be employed to suppress insurrection against the government of any State, and prescribes the duties of the department commander in reference thereto.

The letter of the Attorney General sets forth the conditions under which the marshals and sheriffs may command the assistance of the troops in the respective districts or counties to execute lawful precepts issued to them by competent authority.

The obligation of the military, (individual officers and soldiers,) in common with all citizens, to obey the summons of a marshal or sheriff, must be held subordinate to their paramount duty as members of a permanent military body. Hence the troops can act only in their proper organized capacity, under their own officers, and in obedience to the immediate orders of their officers. The officer commanding troops summoned to the aid of a marshal or sheriff must also judge for himself, and upon his own official responsibility, whether the service required of him is lawful and necessary, and compatible with the proper discharge of his ordinary military duties, and must limit the action absolutely to proper aid in execution of the lawful precept exhibited to him by the marshal or sheriff.

If time will permit, every demand from a civil officer for military aid, whether it be for the execution of civil process or to suppress insurrection, shall be forwarded to the President, with all the material facts in the case, for his orders; and in all cases the highest commander whose orders can be given in time to meet the emergencies will alone assume the responsibility of action.

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By a timely disposition of troops where there is reason to apprehend a necessity for their use, and by their passive interposition between hostile parties, dangers of collision may be averted.

Department commanders, and in cases of necessity their subordinates, are expected, in this regard, to exercise, upon their own responsibility, a wise discretion, to the end that in any event the peace may be preserved.

By command of General Grant.

J. C. KELTON,
Assistant Adjutant General.

HEADQUARTERS OF THE ARMY,
ADJUTANT GENERAL'S OFFICE,
WASHINGTON, *October* 31, 1868.

General Orders, No. 90.

The following order has been received from the War Department, and is published for the information and guidance of all concerned:

Soldiers may, for certain offences not strictly military, be sentenced by general court-martial to confinement in a penitentiary.

If any State in a military department has made provision by law for confinement in a penitentiary thereof of prisoners under sentence by courts-martial of the United States, the department commander may designate such penitentiary as a place for the execution of any such sentence to penitentiary confinement; but if no such provision has been made by any State in the department, the record will be forwarded to the Secretary of War for designation of a prison.

The authority which has designated the place of confinement, or higher authority, can change the place of confinement, or mitigate or remit the sentence.

The same rules apply to prisoners sentenced by military commission, so long as the law under which the military commission acted is in force; but when that law ceases to be operative, the President alone can change the place of confinement, or mitigate or remit the sentence.

By command of General Grant.

E. D. TOWNSEND,
Assistant Adjutant General.

HEADQUARTERS OF THE ARMY,
ADJUTANT GENERAL'S OFFICE,
WASHINGTON, *November* 4, 1868.

General Orders, No. 91.

I. The following orders have been received from the War Department:

WAR DEPARTMENT,
WASHINGTON CITY, *November* 4, 1868.

By direction of the President, Brevet Major General E. R. S. Canby is hereby assigned to the command of the fifth military district, created by the act of Congress of March 2, 1867, and of the military department of Texas, consisting of the State of Texas. He will, without unnecessary delay, turn over his present command to the next officer in rank, and proceed to the command to which he is hereby assigned, and, on assuming the same, will, when necessary to a faithful execution of the laws, exercise any and all powers conferred by acts of Congress upon district commanders, and any and all authority pertaining to officers in command of military departments.

Brevet Major General J. J. Reynolds is hereby relieved from the command of the fifth military district.

J. M. SCHOFIELD,
Secretary of War.

II. In pursuance of the foregoing order of the President of the United States, Brevet Major General Canby will, on receipt of this order, turn over his present command to the officer next in rank to himself, and proceed to Austin, Texas, to relieve Brevet Major General Reynolds of the command of the fifth military district.

By command of General Grant.

E. D. TOWNSEND,
Assistant Adjutant General.

HEADQUARTERS OF THE ARMY,
ADJUTANT GENERAL'S OFFICE,
WASHINGTON, *March* 5, 1869.

General Orders, No. 10.

The President of the United States directs that the following orders be carried into execution as soon as practicable:

1. The department of the South will be commanded by Brigadier and Brevet Major General A. H. Terry.

2. Major General G. G. Meade is assigned to command the military division of the Atlantic, and will transfer his headquarters to Philadelphia, Pennsylvania. He will turn over his present command temporarily to Brevet Major General T. H. Ruger, colonel 33d infantry, who is assigned to duty according to his brevet of major general while in the exercise of this command.

3. Major General P. H. Sheridan is assigned to command the department of Louisiana, and will turn over the command of the department of the Missouri temporarily to the next senior officer.

4. Major General W. S. Hancock is assigned to command the department of Dacotah.

5. Brigadier and Brevet Major General E. R. S. Canby is assigned to command the first military district, and will proceed to his post as soon as relieved by Brevet Major General Reynolds.

6. Brevet Major General A. C. Gillem, colonel 24th infantry, will turn over the command of the fourth military district to the next senior officer, and join his regiment.

7. Brevet Major General J. J. Reynolds, colonel 26th infantry, is assigned to command the fifth military district, according to his brevet of major general.

8. Brevet Major General W. H. Emory, colonel 5th cavalry, is assigned to command the department of Washington, according to his brevet of major general.

By command of the general of the army.

E. D. TOWNSEND,
Assistant Adjutant General.

HEADQUARTERS OF THE ARMY,
ADJUTANT GENERAL'S OFFICE,
WASHINGTON, *March* 16, 1869

General Orders, No. 18.

By direction of the President of the United States, the following changes are made in military divisions and department commands:

I. Lieutenant General P. H. Sheridan is assigned to command the military division of the Missouri.

II. Major General H. W. Halleck is assigned to the command of the military division of the South, to be composed of the departments of the South and Louisiana, of the fourth military district, and of the States composing the present department of the Cumberland, headquarters Louisville, Kentucky. Major General Halleck

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will proceed to his new command as soon as relieved by Major General Thomas.

III. Major General G. H. Thomas is assigned to command the military division of the Pacific.

IV. Major General J. M. Schofield is assigned to command the department of the Missouri. The State of Illinois and post of Fort Smith, Arkansas, are transferred to this department.

V. Brigadier and Brevet Major General O. O. Howard is assigned to command the department of Louisiana. Until his arrival, the senior officer, Brevet Major General J. A. Mower, will command according to his brevet of major general.

VI. The department of Washington will be discontinued and merged in the department of the East. The records will be sent to the adjutant general of the army.

VII. The first military district will be added to the military division of the Atlantic.

VIII. As soon as Major General Thomas is ready to relinquish command of the department of the Cumberland, the department will be discontinued, and the States composing it will be added to other departments, to be hereafter designated. The records will be forwarded to the adjutant general of the army.

By command of General Sherman:

E. D. TOWNSEND,
Assistant Adjutant General.

HEADQUARTERS OF THE ARMY,
ADJUTANT GENERAL'S OFFICE,
WASHINGTON, *March* 31, 1869.

Special Orders, No. 75.

Extract.

* * * * * * *

16. By direction of the President of the United States, Brevet Major General A. S. Webb, U. S. army, is assigned to command the first military district, according to his brevet of major general, until the arrival of Brevet Major General Canby to relieve him. He will accordingly repair to Richmond, Virginia, without delay. * *

By command of General Sherman:

E. D. TOWNSEND,
Assistant Adjutant General.

HEADQUARTERS OF THE ARMY,
ADJUTANT GENERAL'S OFFICE,
WASHINGTON, *April* 3, 1869.

General Orders, No. 29.

I. By direction of the President of the United States, paragraph VIII of General Orders, No. 18, of March 16, 1869, is hereby revoked.

II. Brigadier and Brevet Major General P. St. G. Cooke, U. S. army, is assigned to the command of the department of the Cumberland when it shall be relinquished by Major General Thomas.

By command of General Sherman:

E. D. TOWNSEND,
Assistant Adjutant General.

ORDERS OF THE DISTRICT COMMANDERS.*

First Military District—Virginia.

HEADQUARTERS DEPARTMENT OF VIRGINIA,
RICHMOND, VA., *June* 23, 1869.

General Order, No. 77.

The laws of the State of Virginia and the ordinances of the different municipalities within the State having especial reference to and made to restrain the personal liberty of free colored persons were designed for the government of such persons while living amid a population of colored slaves; they were enacted in the interests of slave-owners, and were designed for the security of slave property: they were substantially parts of the slave code.

Slavery has been abolished in Virginia; and, therefore, upon the principle that where the reason of the law ceases the law itself ceases, these laws and ordinances have become obsolete. People of color will henceforth enjoy the same personal liberty that other citizens and inhabitants enjoy; they will be subject to the same restraints and to the same punishments for crime that are imposed on whites, and to no others.

Vagrancy, however, will not be permitted; neither whites nor blacks can be allowed to abandon their proper occupations, to desert their families, or roam in idleness about this department; but neither whites nor blacks will be restrained from seeking employment elsewhere, when they cannot obtain it with just compensation at their homes, nor from travelling from place to place on proper and legitimate business.

Until the civil tribunals are re-established, the administration of criminal justice must of necessity be by military courts. Before such courts the evidence of colored persons will be received in all cases.

By command of Major General A. H. Terry.

ED. W. SMITH, *A. A. G*

Official: A. R. S. FOOTE, *A. A. G.*

1869, February 8—All civil officers, corporations, &c., required to make returns to the legislature, ordered to make the same to headquarters.

March 15—The joint resolution respecting the provisional governments of Virginia and Texas was promulgated, and all officers unable to take the test oath removed, to take effect the 18th instant.

March 18—Removal in accordance with above order suspended till the 21st instant.

March 21—General Stoneman submitted his report, which showed that there were 5,446 offices in the State, 532 of which had been filled by General Schofield, 1,972 by General Stoneman, 329 could take the oath, and 2,613 were unfilled, owing to the difficulty in finding men able to take the test-oath.

March 22—The mayor of Richmond asked the commanding officer if the appointment of colored policemen would meet his approval, who on the 23d answered that it would, and so would their appointment to all positions to which they were eligible and for which they were competent.

March 27—General Stoneman took upon himself the duties of governor, removing Governor Wells.

March 30—In compliance with Special Order, 75, A. G. O., Brevet Major General A. G. Webb assumed command.

April 2—Governor Wells was reinstated.

April 3—It appearing that the organization of civil government under the reconstruction laws in certain counties proved to be impossible, since suitable persons to qualify and assume the duties of the various offices of this district, under the

*Continued from p. 325 Hand-Book of Politics for 1868, or p. 65 Political Manual for 1868.

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laws of the United States, had not been found, military officers were again appointed in some sections of the State.

April 20—General E. R. S. Canby assumed command.

April 22—All officers of the provisional government ordered to take the test-oath.

May 7—Orders that "all persons elected or appointed to civil office who have subscribed the oath of office of July 2, 1862, and filed the same with county clerks or with other civil officers, as required by law, will cause duly certified copies of said oath to be made and filed at these headquarters, that their ability to qualify under the joint resolution of Congress passed February 6, 1869, (Public, No. 6.) may be definitely ascertained. A failure to send forward such oath will be an indication that the office is vacated under the resolution before cited."

May 27—Assigns military commissioners and superintendents of registration and election; invests the military commissioners with all the powers of justices of the peace and police magistrates, to be "governed in the execution of their duties by the laws of Virginia, except so far as those laws may conflict with the laws of the United States or with the orders issued from these headquarters;" places at their disposition all peace officers, in addition to troops; makes it their duty to promptly report to headquarters all cases, and when parties are held for trial, either in confinement or under bail, the cases to be so fully reported as to enable the commanding general to decide whether they shall be tried by a military commission or a civil court; declares that the powers herein conferred upon military commissioners are not to be construed as extending to the inhabitants in their ordinary personal relations, but to the end that United States laws be duly executed and full protection given to all parties in their rights of person and property, and that they will only be exercised where the civil authorities refuse or fail to act, or exact and impartial justice from the civil courts cannot be secured; all persons required to obey and execute all lawful orders of the military commissioners. Civil officers not relieved from duty—this order being intended to aid and not supersede them—except in cases of necessity. The superintendents of registration and election districts are invested with similar but subordinate powers to those of military commissioners, to or through whom they must report.

June 29—The stay of executions against personal property extended until January 1, 1870: *Provided*, That between January 1 and August 1, 1869, the debtor shall have paid one year's interest upon the principal sum due.

June 30—To guard against fraud, two ballot-boxes at each polling place: one to receive ballots for or against the constitution as a whole, the other, for or against the separate clauses to be voted on; a committee of not more than three persons from each political party to witness ballot counting, but none save sworn election officers to examine or handle poll-lists, ballot-boxes, or ballots.

In justification of his test-oath order, General Canby wrote the following letter:

HEADQUARTERS FIRST MILITARY DISTRICT,
STATE OF VIRGINIA,
RICHMOND, VA., *June* 26, 1869.

Mr. B. W. GILLIS, *Richmond, Va.*

SIR: I have received your note of the 23d instant, and will state in reply to the inquiries therein made—

First. That I have uniformly held that members of the general assembly and State officers to be elected on the 6th proximo would be required to take, before entering upon the duties of their offices, the oath prescribed by the law of July 2, 1862, unless the constitution should first be approved by Congress, or the oath be otherwise dispensed with by law.

Second. That this decision is in conformity with the action heretofore taken upon the same subject in another district, and was based upon a careful consideration of all the laws bearing upon the question now presented.

The 6th section of the law of March 2, 1867, provides "That until the people of the said rebel States shall be by law admitted to representation in the Congress of the United States, any government which may exist therein shall be deemed provisional only, and in all respects subject to the paramount authority of the United States to abolish, modify, control, or supersede the same." The conditions that must precede this admission to representation are prescribed by the 5th section of the same law, the 5th section of the law of March 23, 1867, and the 6th section of the law of April 10, 1869. The same section prescribes the qualifications of voters in all elections to office, and the qualifications (eligibility) of officers under such provisional governments. The supplementary law of March 23, 1867, modified the qualifications of voters by prescribing registration and determining the conditions essential to registration, and the amendatory law of March 13, 1868, section 2, applied the same qualifications (registered voters) to the voters for members of the House of Representatives of the United States, and all elective offices provided for by those constitutions, at the elections to be held upon the questions of ratifying or rejecting the proposed constitutions, and the 9th section of the law of July 19, 1867, imposes an additional qualification upon the officers, by requiring that they shall take the oath of office prescribed by the law of July 2, 1862.

Under the original law of March 2, 1867, (section 5,) it was in the power of the district commander to prescribe an oath of office, conforming to the conditions of eligibility prescribed by that section, and this in fact was done by several of the district commanders in this district by General Orders, No. 9, of April 5, 1867; and these oaths continued in force until they were superseded by the oath required by the law of July 19, 1867. That law placed the subject beyond the discretion and control of the district commander, and he cannot now prescribe or adopt any different oath without disregarding or annulling a positive and controlling law. I have heretofore held, and do now hold, that the approval by Congress of any proposed constitution makes it a part of the reconstruction laws, and, to the extent that Congress directs or authorizes any action under it in advance of the

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admission of the State, dispenses with the provisions of any previous laws that conflict with it. In all other respects the constitutions and the governments organized under them remained inoperative until all the conditions of restoration were satisfied. It has been suggested recently that this decision is in conflict with a decision made by the general of the army in relation to the State of Georgia, on the 2d of March, 1868. The only decision of that date which I have been able to find relates to the State of Florida, and is in reply to a specific inquiry as to the qualifications of voters for offices under the constitution, "and to take office on the adoption of the constitution," and the answer is to be interpreted by the decision of January 13, 1868, that "The governments elected cannot assume authority except under the orders of the district commander, or after action of Congress on their constitutions" The decision in relation to Georgia is dated on the 29th of April, 1868. It is similar in import, and refers to the dispatch of March 2, and this has probably led to the confusion of dates. It is in answer to a communication from the commander of the third military district, and applies directly and apparently exclusively to the 2d paragraph of General Orders. No. 61, third military district, of May 15, 1868, which provides that "inasmuch as said general assembly, should the constitution now submitted to the people of the State be ratified by them, and be approved by Congress, is required to convene and adopt the proposed amendment to the Constitution designated as Article XIV before the State can be admitted to representation in Congress, it may be decided that the members of the said general assembly are, while taking this preliminary action, officers of a provisional government, and as such required, under the 9th section of the act of Congress, of July 19, 1867, to take the "test oath."

This decision must also be interpreted by the decision of January 13th, and this I apprehend to be the proper rule of interpretation of all the correspondence upon this subject, as I have been unable to find any case in which the inquiry and answer did not relate to the status of those officers *after* the approval by Congress of the constitution under which they were elected. The law of June 25, 1868, approving the constitutions of several States, and authorizing specific action under them, was regarded by me as dispensing with the oath of office prescribed by the law of July 2, 1862, first as to the members of the general assembly, and after the ratification of the constitutional amendment to the other State officers duly elected and qualified under those constitutions. This construction, in its first application, did not include the governor and lieutenant governor; but as the organization of the legislature would have been incomplete without the lieutenant governor, and as the legislative action required by the law might have been embarrassed by the action of the old incumbents, the general of the army directed that they should be removed, and the governor and lieutenant governor elect should be appointed in their places. They were so appointed in North and South Carolina. qualified under their military appointment, and after the ratification of the constitutional amendment again qualified under the constitutions of their States.

The action taken in the first case was approved, and in the second, directed by the general of the army. It has also been suggested that the reconstruction laws are silent as to the qualification of officers to be elected under the proposed constitutions and of voters at such elections, and that the laws under which the decision has been made are in conflict with the recent legislation of Congress (act of April 10, 1869) and with the XIVth article of the amendments to the Constitution of the United States. The question with regard to the qualification of voters was raised in the case of the (then) proposed constitution of the State of Florida, and was settled by the 2d section of the law of March 13, 1868, which provides "That the constitutional conventions of any of the States named in the acts to which this is amendatory may provide, that at the time of voting upon the ratification of the constitution, the *registered voters* may vote also for members of the House of Representatives of the United States and for all elective officers provided by said constitution." The "voters" at the election to be held in this State for "members of the general assembly," "State officers," and "members of Congress," under the authority of the 2d section of the law of April 10, 1869. are determined by the 1st section of that law to be the "voters of said State registered at the date of said submission (of the constitution) for ratification or rejection." The qualification of the officers rests upon the same basis, and must be governed by the reconstruction laws until the constitution becomes the controlling law, and this does not obtain until it has been approved by Congress. Over the remaining suggestions the district commander has no control. and the question whether the laws are or are not in conflict with the constitution must be determined by the Supreme Court of the United States.

Very respectfully, your obedient servant,

ED. R. S CANBY,

Brevet Major General, commanding.

Second Military District—North Carolina and South Carolina.

1868, July 2—Various appointments of railroad directors, &c., made by Governor Worth annulled.

July 2—Legislature of North Carolina ratified the XIVth constitutional amendment.

July 3—General Canby telegraphed to Governor Holden, "Your telegram announcing the ratification of the constitutional amendment by the Legislature of North Carolina has been received, and instructions will be sent to day to the military commanders in North Carolina to abstain from the exercise of any authority under the reconstruction laws, except to close up unfinished business, and not to interfere in any civil matters unless the execution of the law of June 25, 1868, should be obstructed by unlawful or forcible opposition to the inauguration of the new State government."

July 6—Issued instructions as to the course to be pursued by commanding officers on ratification of XIVth amendment in North Carolina and issue of the President's proclamation.

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July 9—The Legislature of South Carolina ratified the XIVth constitutional amendment.

July 13—Order similar to that of July 6 in relation to South Carolina.

July 24—All authority conferred upon and heretofore exercised by the commander of the said second military district, by and under the aforecited law of March 2, 1867, remitted to the civil authorities constituted and organized in the said States of North Carolina and South Carolina under the constitutions adopted by the people thereof and approved by the Congress of the United States.

Third Military District—Georgia, Florida, and Alabama.

1868, April 10—The resignations of sheriffs in Georgia being very numerous on account of the near approach of the election, their resignations were not received, and they were required to continue in the discharge of their duties till relieved by further orders.

Forbade the attempts of employers to control the action or will of their laborers as to voting, by threats of discharge or other oppressive means, under the penalty of fine and imprisonment Announced it as the intention of the commanding general to secure to all duly registered voters an opportunity to vote "freely and without restraint, fear, or the influence of fraud."

April 11—Forbade all municipal elections in Georgia on the general election day. Forbade the assembling of any armed bodies to discuss political questions. Forbade the carrying of arms at or near polling places on election day. Enjoined the superintendents of registration and officers of Freedmen's Bureau to instruct the freedmen as to their rights.

April 13—It having been reported that many names have been stricken from the registered list of voters in Georgia without any cause, and it being the determination of the commanding general that all the candidates shall be able to show, from official data, that the election was honestly and fairly conducted, all managers of elections were ordered to receive the votes of all such persons, to be sent in a separate envelope with the returns of the election.

April 15—Members of the General Assembly of Georgia taking their seats before the ratification of the XIVth constitutional amendment are officers of a provisional government, and required to take the test-oath.

April 24—Allowed the employment on the highway of such persons as had been convicted of minor offences, permitted the use of the ball and chain where there was danger of escape, but the chain-gang not to be revived.

May 11—Declared the constitution of Georgia ratified by a majority of 17,699.

June 2—Declared the constitution of Florida ratified by a majority of 5,050.

June 9—Legislature of Florida ratified the XIVth constitutional amendment.

June 28—Rufus B. Bullock appointed Governor of Georgia, vice Brevet Brigadier General T. H. Ruger, to date from July 5. William H. Smith, Governor, vice R. M. Patton removed, and A. J. Applegate, Lieutenant Governor, of Alabama, both to date from July 13.

June 29—All civil officers in Florida ordered to turn over all public property, &c., to duly elected officers, and the district commander, on notification of the inauguration of civil government, to transfer everything appertaining to the government of said State to the proper civil officers, and to abstain in future upon any pretext whatever from any interference with or control over the civil authorities of the State in the persons and property of the citizens thereof.

July 2—Forbade any court or ministerial officer in Georgia to enforce any judgment, decree, or execution against any real estate, except for taxes, money borrowed and expended in the improvement of the homestead or for the purchase-money of the same, and for labor done thereon or material furnished therefor, or removal of incumbrance thereon, until the legislature should have time to provide for the setting apart and valuation of such property.

July 3—Governor R. B. Bullock ordered to effect organization of the two houses of the legislature of Georgia on the 4th inst.

July 9—Governor Wm. H. Smith ordered to organize the two houses of the legislature of Alabama on the 13th inst., having required beforehand that each house shall be purged of those who were obnoxious to the XIVth constitutional amendment.

July 13—The legislature of Alabama ratified the XIVth constitutional amendment.

July 14—Military rule withdrawn from the State of Alabama. All prisoners ordered to be turned over to civil courts. Writs from State courts to be answered by stating that the prisoners are prisoners of the United States, and writ must come from United States court.

July 21—Legislature of Georgia ratified the XIVth constitutional amendment.

July 22—Military rule withdrawn from Georgia.

HEADQUARTERS THIRD MILITARY DISTRICT,
(DEPT. OF GEORGIA, FLORIDA, AND ALABAMA,)
ATLANTA, GA., *July* 30, 1868.

General Orders, No. 108.

I. The several States comprising this military district having, by solemn acts of their Assemblies, conformed to the requisitions of the act of Congress which became a law June 25, 1868, and civil government having been inaugurated in each, the military power vested in the district commander by the reconstruction laws, by the provisions of these laws ceases to exist, and hereafter all orders issued from these headquarters, and bearing upon the rights of persons and property, will have in the several States of Georgia, Alabama, and Florida only such force as may be given to them by the courts and legislatures of the respective States. * *

By order of Major General Meade:

S. F. BARSTOW, *A. A. A. G.*

Fourth Military District—Mississippi and Arkansas.

1868, June 22—Arkansas admitted to representation in Congress.

June 22—Election in Mississippi, constitution defeated.

June 30—Military rule withdrawn from Arkansas.

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August 5—Arkansas detached from the fourth military district and attached to the department of Louisiana.

1869, March 23—All offices held by persons unable to take the test-oath and whose disabilities have not been removed declared vacant.

April 9—Annuls an act of the legislature of Mississippi of 1867 in regard to poll-tax, fixing it at one dollar instead of two. No city or town allowed to levy a poll-tax.

April 27—Ordered that all persons, without respect to race, color, or previous condition of servitude, who possess the qualifications prescribed by article 135, page 499, of the Revised Code of 1857, shall be competent jurors.

Fifth Military District—Louisiana and Texas.

1868, July 9—Legislature of Louisiana ratified the XIVth constitutional amendment.

July 13—Military rule withdrawn from Louisiana.

August 4—Louisiana detached from the fifth military district.

September 18—The constitutional convention of the State of Texas, on the 25th day of August, 1868, levied a tax of one-fifth of one per cent. on the assessment of 1868; which tax the assessors and collectors now have instructions to collect. It is hereby ordered that the tax be promptly paid. Any obstruction or resistance to the collection of said tax will be a violation of the law of Congress, and as such will be punished by military authority.

September 29—No election for electors of President and Vice President of the United States will be held in the State of Texas on the 3d of November next. Any assemblages, proceedings, or acts for such purposes are hereby prohibited, and all citizens are admonished to remain at home, or attend to their ordinary business on that day.

November 4—General Reynolds removed from command. General E. R. S. Canby assigned to the fifth military district.

December 7—The constitutional convention reassembled,

1869, January 16—Divided the State into posts, giving instructions as to the duties of the commanding officers of each, and calling on all good citizens to unite in enforcing the law and establishing a good government.

January 20—Forbids all military interference where civil power is sufficient to insure justice and order, and requires all things to be done as nearly in accordance with the laws of the States as may be, and promises the support of the military in every case of need to the civil authorities.

January 21—Authorizes post commanders to admit to bail persons not subject to Articles of War held in military arrest. Prescribes the form of bond.

"II. The commanding general is advised that in some of the counties of this State it has been the practice of the sheriff, in calling for assistance in the execution of legal process, to summon only persons who are of the same political party. The administration of justice should not only be impartial, but its agents should be free from the suspicion of political or partisan bias; and it is made the duty of all sheriffs and peace officers in all cases where they may lawfully require assistance, to summon substantial citizens of the county, whose social and material interests are involved in the peace and prosperity of the community, without reference to their political opinions.

"For like reasons, no person who is personally or pecuniarily interested in any issue to be tried will hereafter be deputed to serve or be summoned to aid in the service of any legal process connected with the particular cause of action."

HEADQ'RS FIFTH MILITARY DISTRICT,
AUSTIN, TEXAS, *April* 7, 1869.

General Orders, No. 68.

The provisions of chapter 63, general laws of the 11th legislature, State of Texas, passed October 27, 1866, are so modified, that hereafter no county judge or county court shall apprentice any child whose relatives, either by consanguinity or affinity, take such care of it as to prevent its becoming a charge upon the public; and in every case where a child has been apprenticed by the county court since the 19th day of June, 1865, the indentures shall be cancelled by the court that ordered them, when the relatives of such child, either by consanguinity or affinity, apply to the county court for the custody and care of it.

It is further ordered, that the bond required by section 5 of said act shall, in addition to the conditions therein prescribed, provide for the tuition of such child in some private or public school for three months in every year of the apprenticeship. * *

In any case where a sale of real estate may be made under execution or other judicial process, or "under a mortgage or deed of trust," and the proceeds of such sale are for the benefit of the State of Texas, the Governor and attorney general may direct that such real estate shall be bid in for the State, if in their judgment the interest of the State will thereby be promoted; and the deed in such case shall be executed to the State of Texas in the same manner and with like effect as if the purchase had been made by an individual.

The State of Texas shall in no case be required to give any bond or other security in the prosecution of its suits or remedies in the courts of the State.

The operation of the act of the 11th legislature of Texas, providing "for the education of indigent white children of the several counties of the State," passed November 12, 1866, is hereby suspended until the legislature shall provide for an equal system of common schools. All moneys collected for the purposes named in the act above cited, and not paid out or due under existing contracts or agreements, are hereby directed to be paid to the treasurers of the several counties wherein the same shall have been collected, and said treasurers are directed and required to receipt and account for the same as by law required with reference to other moneys not applicable to any special fund or purpose.

By command of Bvt. Maj. Gen. E. R. S. Canby:
LOUIS V. CAZIARC,
A. D. C. A. A. A. G

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April 8.—Gen. Canby relinquished command, and Gen. J. J. Reynolds resumed it.

April 12.—All civil officers in the State who cannot take the test-oath will cease to perform official duties on the 25th instant.

New Constitution of Texas.

The constitution of the State of Texas, adopted by the convention, and to be submitted to a vote of the people at a time to be indicated by the President, contains in the preamble an acknowledgment, with gratitude, of the grace of God in permitting them to make a choice of our form of government.

In the bill of rights are these declarations:

That the heresies of nullification and secession, which brought the country to grief, may be eliminated from political discussion, that public order may be restored, private property and human life protected, and the great principles of liberty and equality secured to us and our posterity, we declare that—

The Constitution of the United States, and the laws and treaties made and to be made in pursuance thereof, are acknowledged to be the supreme law; that this constitution is framed in harmony with and in subordination thereto; and that the fundamental principles embodied herein can only be changed subject to the national authority.

All freemen, when they form a social compact, have equal rights, and no man or set of men is entitled to exclusive separate public emoluments or privileges.

No law shall be passed depriving a party of any remedy of the enforcement of a contract which existed when the contract was made.

No person shall ever be imprisoned for debt.

No citizen of this State shall be deprived of life, property, or privileges, outlawed, exiled, or in any manner disfranchised, except by due course of the law of the land.

Perpetuities and monopolies are contrary to the genius of a free government, and shall never be allowed; nor shall the law of primogeniture or entailment ever be in force in this State.

The equality of all persons before the law is herein recognized, and shall ever remain inviolate; nor shall any citizen ever be deprived of any right, privilege, or immunity, nor be exempted from any burdens or duty, on account of race, color, or previous condition.

Importations of persons under the name of "coolies," or any other designation, or the adoption of any system of peonage, whereby the helpless and unfortunate may be reduced to partial bondage, shall never be authorized or tolerated by the laws of the State; and neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall ever exist in the State.

Every male person who shall have attained the age of twenty-one years, and who shall be (or who shall have declared his intention to become) a citizen of the United States, or who is at the time of the acceptance of this constitution by the Congress of the United States a citizen of Texas, and shall have resided in the State one year next preceding an election, and the last six months within the district or county in which he offers to vote and is duly registered, (Indians not taxed excepted,) shall be deemed a qualified elector; and should such qualified elector happen to be in any other county, situated in the district in which he resides, at the time of an election, he shall be permitted to vote for any district officer; provided that the qualified elector shall be permitted to vote anywhere in the State for State officers; and provided further, that no soldier, seaman, or marine in the army or navy of the United States shall be entitled to vote at any election created by this constitution.

Senators shall be chosen for six years, and representatives for two. The governor for four.

The legislature shall not authorize any lottery, and shall prohibit the sale of lottery tickets.

It shall be the duty of the legislature to immediately expel from the body any member who shall receive or offer a bribe, or suffer his vote influenced by promise of preferment or reward; and every person so offending and so expelled shall thereafter be disabled from holding any office of honor, trust, or profit in this State.

The legislature shall proceed, as early as practicable, to elect senators to represent this State in the Senate of the United States; and also provide for future elections of representatives to the Congress of the United States; and on the second Tuesday after the first assembling of the legislature after the ratification of this constitution the legislature shall proceed to ratify the XIIIth and XIVth articles of amendment to the Constitution of the United States of America.

The governor may at all times require information in writing from all the officers of the executive department on any subject relating to the duties of their offices, and he shall have a general supervision and control over them. He shall have the power of removal of each of said officers, except the lieutenant governor, for misfeasance, malfeasance, or nonfeasance; but the reasons and causes of such removal shall be communicated in writing by him to the senate at the first meeting of the legislature which occurs after such removal, for its approval or disapproval; if disapproved by the senate, it may restore the displaced incumbent by a vote of that body.

The governor has the veto power, subject to an overriding vote of two-thirds of each House.

The supreme judges to be appointed by the governor, with approval of the senate, to serve for nine years.

Every male citizen of the United States, of the age of twenty-one years and upwards, not laboring under the disabilities named in this constitution without distinction of race, color, or former condition, who shall be a resident of this State at the time of the adoption of this constitution, or who shall hereafter reside in this State one year, and in the county in which he offers to vote sixty days next preceding any election, shall be entitled to vote for all officers that are now or hereafter may be elected by the people, and upon all questions submitted to the electors at any election; provided, that no person shall be allowed to vote or hold office who is now or hereafter may be disqualified thereby by the Constitution of the United States,

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until such disqualification shall be removed by the Congress of the United States; provided, further, that no person while kept in any asylum, or confined in prison, or who has been convicted of felony, or who is of unsound mind, shall be allowed to vote or hold office.

It shall be the duty of the legislature of the State to make suitable provisions for the support and maintenance of a system of public free schools, for the gratuitous instruction of all the inhabitants of this State between the ages of six and eighteen years.

The legislature shall establish a uniform system of public free schools throughout the State.

The legislature at its first session (or as soon thereafter as may be possible) shall pass such laws as will require the attendance on the public free schools of the State of all the scholastic population thereof for the period of at least four months of each and every year; provided, that whenever any of the scholastic inhabitants may be shown to have received regular instruction for said period of time in each and every year from any private teacher having a proper certificate of competency, this shall exempt them from the operation of the laws contemplated by this section.

As a basis for the establishment and endowment of said public free schools, all the funds, lands, and other property heretofore set apart and appropriated for the support and maintenance of public schools shall constitute the public school fund; and all sums of money that may come to this State hereafter from the sale of any portion of the public domain of the State of Texas shall also constitute a part of the public school fund. And the legislature shall appropriate all the proceeds resulting from sales of public lands of this State to such public school fund. And the legislature shall set apart, for the benefit of public schools, one fourth of the annual revenue derivable from general taxation, and shall also cause to be levied and collected an annual poll-tax of one dollar on all male persons in this State between the ages of twenty-one and sixty years for the benefit of public schools. And said fund and the income derived therefrom, and the taxes herein provided for school purposes, shall be a perpetual fund, to be applied, as needed, exclusively for the education of all the scholastic inhabitants of this State, and no law shall ever be made appropriating such fund for any other use or purpose whatever.

The legislature shall, if necessary, in addition to the income derived from the public school fund and from the taxes for school purposes provided for in the foregoing section, provide for the raising of such amount, by taxation, in the several school districts in the State, as will be necessary to provide the necessary school-houses in each district and insure the education of all the scholastic inhabitants of the several districts.

The public lands heretofore given to counties shall be under the control of the legislature, and may be sold under such regulations as the legislature may prescribe, and in such case the proceeds of the same shall be added to the public school fund.

The legislature shall, at its first session, (and from time to time thereafter, as may be found necessary,) provide all needful rules and regulations for the purpose of carrying into effect the provisions of this article. It is made the imperative duty of the legislature to see to it that all the children in the State, within the scholastic age, are without delay provided with ample means of education. The legislature shall annually appropriate for school purposes, and to be equally distributed among all the scholastic population of the State, the interest accruing on the school fund and the income derived from taxation for school purposes, and shall, from time to time, as may be necessary, invest the principal of the school fund in the bonds of the United States Government, and in no other security.

To every head of a family, who has not a homestead, there shall be donated one hundred and sixty acres of land out of the public domain, upon the condition that he will select, locate, and occupy the same for three years, and pay the office fees on the same. To all single men twenty one years of age there shall be donated eighty acres of land out of the public domain, upon the same terms and conditions as are imposed upon the head of a family.

Members of the legislature, and all officers, before they enter upon the duties of their offices, shall take the following oath or affirmation: "I (A. B.) do solemnly swear (or affirm), that I will faithfully and impartially discharge and perform all duties incumbent on me as ——, according to the best of my skill and ability, and that I will support the Constitution and laws of the United States and of this State. And I do further swear (or affirm), that since the acceptance of this constitution by the Congress of the United States, I, being a citizen of this State, have not fought a duel with deadly weapons, or committed an assault upon any person with deadly weapons, or sent or accepted a challenge to fight a duel with deadly weapons, or acted as second in fighting a duel, or knowingly aided or assisted any one thus offending, either within the State or out of it; that I am not disqualified from holding office under the 14th amendment to the Constitution of the United States, (or, as the case may be, my disability to hold office under the XIV amendment to the Constitution of the United States has been removed by act of Congress;) and, further, that I am a qualified elector in this State."

Laws shall be made to exclude from office, serving on juries, and from the right of suffrage, those who shall hereafter be convicted of bribery perjury, forgery, or other high crimes. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting under adequate penalties all undue influence thereon from power, bribery, tumult, or other improper practice.

The legislature shall provide by law for the compensation of all officers, servants, agents, and public contractors, not provided for by this constitution, and shall not grant extra compensation to any officer, agent, servant, or public contractor, after such public service shall have been performed, or contract entered into for the performance of the same; nor grant, by appro-

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priation or otherwise, any amount of money out of the treasury of the State, to any individual, on a claim, real or pretended, where the same shall not have been provided for by pre-existing law.

General laws, regulating the adoption of children, emancipation of minors, and the granting of divorces, shall be made; but no special law shall be enacted relating to particular or individual cases.

The rights of married women to their separate property, real and personal, and the increase of the same, shall be protected by law; and married women, infants, and insane persons, shall not be barred of their rights of property by adverse possession or law of limitation of less than seven years from and after the removal of each and all of their respective legal disabilities.

The legislature shall have power, and it shall be their duty, to protect by law from forced sale a certain portion of the property of all heads of families. The homestead of a family, not to exceed two hundred acres of land, (not included in a city, town, or village,) or any city, town, or village lot or lots, not to exceed five thousand dollars in value at the time of their designation as a homestead, and without reference to the value of any improvements thereon, shall not be subject to forced sales for debts, except they be for the purchase thereof, for the taxes assessed thereon, or for labor and materials expended thereon; nor shall the owner, if a married man, be at liberty to alienate the same unless by the consent of the wife, and in such manner as may be prescribed by law.

All persons who at any time heretofore lived together as husband and wife, and both of whom, by the law of bondage, were precluded from the rites of matrimony and continued to live together until the death of one of the parties, shall be considered as having been legally married and the issue of such cohabitation shall be deemed legitimate, and all such persons as may be now living together in such relation shall be considered as having been legally married, and the children heretofore or hereafter born of such cohabitations shall be deemed legitimate.

No minister of the Gospel, or priest of any denomination whatever, who accepts a seat in the legislature as representative, shall, after such acceptance, be allowed to claim exemption from military service, road duty, or serving on juries, by reason of his said profession.

The ordinance of the convention passed on the first day of February, A. D. 1861, commonly known as the ordinance of secession, was in contravention of the Constitution and laws of the United States, and therefore null and void from the beginning; and all laws and parts of laws founded upon said ordinance were also null and void from the date of their passage. The legislatures which sat in the State of Texas from the 18th day of March, A. D. 1861, until the 6th day of August, A. D. 1866, had no constitutional authority to make laws binding upon the people of the State of Texas: *Provided*, That this section shall not be construed to inhibit the authorities of this State from respecting and enforcing such rules and regulations as were prescribed by the said legislatures which were not in violation of the Constitution and laws of the United States, or in aid of the rebellion against the United States, or prejudicial to citizens of this State who were loyal to the United States, and which have been actually in force or observed in Texas during the above period of time, nor to affect prejudicially private rights which may have grown up under such rules and regulations, nor to invalidate official acts not in aid of the rebellion against the United States during said period of time. The legislature which assembled in the city of Austin on the 6th day of August, A. D. 1866, was provisional only, and its acts are to be respected only so far as they were not in violation of the Constitution and laws of the United States, or were not intended to reward those who participated in the rebellion or discriminate between citizens on account of race or color, or to operate prejudicially to any class of citizens.

All debts created by the so-called State of Texas from and after the 28th day of January, A. D. 1861, and prior to the 5th day of August, 1865, were and are null and void, and the legislature is prohibited from making any provision for the acknowledgment or payment of such debts. All unpaid balances, whether of salary, per diem, or monthly allowance due to employees of the State, who were in the service thereof on the said 28th day of January, 1861, civil or military, and who gave their aid, countenance, or support to the rebellion then inaugurated against the Government of the United States, or turned their arms against the said Government, thereby forfeited the sums severally due to them. All the ten per cent. warrants issued for military services, and exchanged during the rebellion at the treasury for non-interest warrants, are hereby declared to have been fully paid and discharged: *Provided*, That any loyal person, or his or her heirs or legal representatives, may, by proper legal proceedings, to be commenced within two years after the acceptance of this constitution by the Congress of the United States, show proof in avoidance of any contract made or revise or annul any decree or judgment rendered since the said 28th day of January, 1861, when, through fraud practiced or threats of violence used towards such persons, no adequate consideration for the contract has been received; or when, through absence from the State of such person, or through political prejudice against such person, the decision complained of was not fair or impartial.

All the qualified voters of each county shall also be qualified jurors of such county.

Four congressional districts are established, to continue till otherwise provided by law.

The election on the adoption of the constitution to be held on the first Monday in July, 1869, at the places and under the regulations to be prescribed by the commanding general of the military district.

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XLV.

JUDICIAL DECISIONS, AND THE OPINION OF THE ATTORNEY GENERAL OF THE UNITED STATES ON THE JURISDICTION OF MILITARY COMMISSIONS.

SUPREME COURT OF THE UNITED STATES.

On the Right of a State to Tax Passengers Passing through it.

No. 85, DECEMBER TERM, 1867.

William H. Crandall, pl'ff in error, vs. The State of Nevada. } In error to the supreme court of the State of Nevada.

Mr. Justice Miller delivered the opinion of the court.

The question for the first time presented to the court by this record is one of importance. The proposition to be considered is the right of a State to levy a tax upon persons residing in the State who may wish to get out of it, and upon persons not residing in it who may have occasion to pass through it.

It is to be regretted that such a question should be submitted to our consideration with neither brief nor argument on the part of plaintiff in error. But our regret is diminished by the reflection, that the principles which must govern its determination have been the subject of much consideration in cases heretofore decided by this court.

The plaintiff in error, who was the agent of a stage company engaged in carrying passengers through the State of Nevada, was arrested for refusing to report the number of passengers that had been carried by the coaches of his company, and for refusing to pay the tax of one dollar imposed on each passenger by the law of that State. He pleaded in good form that the law of the State under which he was prosecuted was void, because it was in conflict with the Constitution of the United States; and his plea being overruled, the case came into the supreme court of the State, where it was decided against the claim thus set up under the Federal Constitution.

The provisions of the statute charged to be in violation of the Constitution are to be found in sections 90 and 91 of the revenue act of 1865, page 271 of the statutes of Nevada for that year. Section 90 enacts, that "there shall be levied and collected a capitation tax of one dollar upon every person leaving the State by any railroad, stage coach, or other vehicle engaged or employed in the business of transporting passengers for hire;" and that the proprietors, owners, and corporations so engaged shall pay said tax of one dollar for each and every person so conveyed or transported from the State. Section 91, for the purpose of collecting the tax, requires from persons engaged in such business, or their agents, a report every month, under oath, of the number of passengers so transported, and the payment of the tax to the sheriff or other proper officer.

It is claimed by counsel for the State that the tax thus levied is not a tax upon the passenger, but upon the business of the carrier who transports him.

If the act were much more skillfully drawn to sustain this hypothesis than it is, we should be very reluctant to admit that any form of words which had the effect to compel every person traveling through the country by the common and usual modes of public conveyance to pay a specific sum to the State was not a tax upon the right thus exercised. The statute before us is not, however, embarrassed by any nice difficulties of this character. The language which we have just quoted is, that there shall be levied and collected a capitation tax upon every person leaving the State by any railroad or stage-coach, and the remaining provisions of the act, which refer to this tax, only provide a mode of collecting it. The officers and agents of the railroad companies and the proprietors of the stage-coaches are made responsible for this, and so become the collectors of the tax.

We shall have occasion to refer hereafter somewhat in detail to the opinions of the judges of this court in the Passenger Cases, 7 Howard, in which there were wide differences on several points involved in the case before us. In the case from New York then under consideration the statute provided that the health commissioner should be entitled to demand and receive from the master of every vessel that should arrive in the port of New York from a foreign port $1 50 for every cabin passenger and $1 for each steerage passenger, and from each coasting vessel twenty-five cents for every person on board. That statute does not use language so strong as the Nevada statute, indicative of a personal tax on the passenger, but merely taxes the master of the vessel according to the number of his passengers; but the court held it to be a tax upon the passenger, and that the master was the agent of the State for its collection. Chief Justice Taney, while he differed from the majority of the court and held the law to be valid, said of the tax levied by the analogous statute of Massachusetts, that "its payment is the condition upon which the State permits the alien passenger to come on shore and mingle with its citizens and to reside among them. It is demanded of the captain, and not from every separate passenger, for convenience of collection. But the burden evidently falls upon the passenger, and he in fact pays it, either in the enhanced price of his passage or directly to the captain before he is allowed to embark for the voyage.

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The nature of the transaction and the ordinary course of business show that this must be so."

Having determined that the statute of Nevada imposes a tax upon the passenger for the privilege of leaving the State, or passing through it by the ordinary mode of passenger travel, we proceed to inquire if it is for that reason in conflict with the Constitution of the United States.

In the argument of the counsel for the defendant in error, and in the opinion of the supreme court of Nevada, which is found in the record, it is assumed that this question must be decided by an exclusive reference to two provisions of the Constitution, namely: that which forbids any State, without the consent of Congress, to lay any imposts or duties on imports or exports, and that which confers on Congress the power to regulate commerce with foreign nations and among the several States.

The question as thus narrowed is not free from difficulties. Can a citizen of the United States traveling from one part of the Union to another be called an export? It was insisted in the Passenger Cases, to which we have already referred, that foreigners coming to this country were imports within the meaning of the Constitution, and the provision of that instrument that the migration or importation of such persons as any of the States then existing should think proper to admit should not be prohibited prior to the year 1808, but that a tax might be imposed on such importation was relied on as showing that the word import applied to persons as well as to merchandize. It was answered that this latter clause had exclusive reference to slaves, who were property as well as persons, and therefore proved nothing. While some of the judges who concurred in holding those laws to be unconstitutional gave as one of their reasons that they were taxes on imports, it is evident that this view did not receive the assent of a majority of the court. The application of this provision of the Constitution to the proposition which we have stated in regard to the citizen is still less satisfactory than it would be to the case of foreigners migrating to the United States.

But it is unnecessary to consider this point further in the view which we have taken of the case.

As regards the commerce clause of the Constitution, two propositions are advanced on behalf of the defendant in error: 1. That the tax imposed by the State on passengers is not a regulation of commerce. 2. That if it can be so considered it is one of those powers which the States can exercise until Congress has so legislated as to indicate its intention to exclude State legislation on the same subject.

The proposition that the power to regulate commerce, as granted to Congress by the Constitution, necessarily excludes the exercise by the States of any of the power thus granted, is one which has been much considered in this court, and the earlier discussions left the question in much doubt. As late as the January term, 1849, the opinions of the judges in the Passenger Cases show that the question was considered to be one of much importance in those cases, and was even then unsettled, though previous decisions of the court were relied on by the judges themselves as deciding it in different ways. It was certainly, so far as those cases affected it, left an open question.

In the case of Cooley *vs.* Board of Wardens, 12 Howard, 299, four years later, the same question came directly before the court in reference to the local laws of the port of Philadelphia concerning pilots. It was claimed that they constituted a regulation of commerce, and were therefore void. The court held that they did come within the meaning of the term 'to regulate commerce," but that until Congress made regulations concerning pilots the States were competent to do so.

Perhaps no more satisfactory solution has ever been given of this vexed question than the one furnished by the court in that case. After showing that there are some powers granted to Congress which are exclusive of similar powers in the States, because they are declared to be so, and that other powers are necessarily so from their very nature, the court proceeds to say, that the authority to regulate commerce with foreign nations and among the States includes within its compass powers which can only be exercised by Congress, as well as powers which, from their nature, can best be exercised by the State legislatures, to which latter class the regulation of pilots belongs. "Whatever subjects of this power are in their nature national, or admit of one uniform system or plan of regulation, may justly be said to be of such a nature as to require exclusive legislation by Congress." In the case of Gillman *vs.* Philadelphia, 3 Wallace, 713, this doctrine is reaffirmed, and under it a bridge across a stream navigable from the ocean, authorized by State law, was held to be well authorized in the absence of any legislation by Congress affecting the matter.

It may be that under the power to regulate commerce among the States, Congress has authority to pass laws, the operation of which would be inconsistent with the tax imposed by the State of Nevada, but we know of no such statute now in existence. Inasmuch, therefore, as the tax does not itself institute any regulation of commerce of a national character, or which has a uniform operation over the whole country, it is not easy to maintain, in view of the principles on which those cases were decided, that it violates the clause of the Federal Constitution which we have had under review.

But we do not concede that the question before us is to be determined by the two clauses of the Constitution which we have been examining.

The people of these United States constitute one nation. They have a Government in which all of them are deeply interested. This Government has necessarily a capital established by law, where its principal operations are conducted. Here sits its legislature, composed of senators and representatives from the States and from the people of the States. Here resides the President, directing through thousands of agents the execution of the laws over all this vast country. Here is the seat of the supreme judicial power of the nation, to which all its citizens have a right to resort to claim justice at its hands. Here are the great executive departments, administering

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the offices of the mails, of the public lands, of the collection and distribution of the public revenues, and of our foreign relations. These are all established and conducted under the admitted powers of the Federal Government. That Government has a right to call to this point any or all of its citizens to aid in its service, as members of the Congress, of the courts, of the executive departments, and to fill all its other offices; and this right cannot be made to depend upon the pleasure of a State, over whose territory they must pass to reach the point where these services must be rendered. The Government also has its offices of secondary importance in all other parts of the country. On the seacoasts and on the rivers it has its ports of entry. In the interior it has its land offices, its revenue offices, and its sub-treasuries. In all these it demands the services of its citizens, and is entitled to bring them to those points from all quarters of the nation, and no power can exist in a State to obstruct this right that would not enable it to defeat the purposes for which the Government was established.

The federal power has a right to declare and prosecute wars, and, as a necessary incident, to raise and transport troops through and over the territory of any State of the Union.

If this right is dependent in any sense, however limited, upon the pleasure of a State, the Government itself may be overthrown by an obstruction to its exercise. Much the largest part of the transportation of troops during the late rebellion was by railroads, and largely through States whose people were hostile to the Union. If the tax levied by Nevada on railroad passengers had been the law of Tennessee, enlarged to meet the wishes of her people, the treasury of the United States could not have paid the tax necessary to enable its armies to pass through her territory.

But if the Government has these rights on her own account, the citizen also has correlative rights. He has the right to come to the seat of Government to assert any claim he may have upon that Government, or to transact any business he may have with it; to seek its protection, to share its offices, to engage in administering its functions. He has a right to free access to its sea-ports, through which all the operations of foreign trade and commerce are conducted, to the sub-treasuries, the land offices, the revenue offices, and the courts of justice in the several States, and this right is in its nature independent of the will of any State over whose soil he must pass in the exercise of it.

The views here advanced are neither novel nor unsupported by authority. The question of the taxing power of the States, as its exercise has affected the functions of the Federal Government, has been repeatedly considered by this court, and the right of the States in this mode to impede or embarrass the constitutional operations of that Government, or the rights which its citizens hold under it, has been uniformly denied.

The leading case of this class is that of McCulloch *vs.* Maryland, (4 Wheaton, 316.) The case is one every way important, and is familiar to the statesman and the constitutional lawyer. The Congress, for the purpose of aiding the fiscal operations of the Government, had chartered the Bank of the United States, with authority to establish branches in the different States, and to issue notes for circulation. The legislature of Maryland had levied a tax upon these circulating notes, which the bank refused to pay, on the ground that the statute was void by reason of its antagonism to the Federal Constitution. No particular provision of the Constitution was pointed to as prohibiting the taxation by the State. Indeed, the authority of Congress to create the bank, which was strenuously denied, and the discussion of which constituted an important element in the opinion of the court, was not based by that opinion on any express grant of power, but was claimed to be necessary and proper to enable the Government to carry out its authority to raise a revenue, and to transfer and disburse the same. It was argued also that the tax on the circulation operated very remotely, if at all, on the only functions of the bank in which the Government was interested. But the court, by a unanimous judgment, held the law of Maryland to be unconstitutional.

It is not possible to condense the conclusive argument of Chief Justice Marshall in that case, and it is too familiar to justify its reproduction here; but an extract or two, in which the results of his reasoning are stated, will serve to show its applicability to the case before us. "That the power of taxing the bank by the States," he says, "may be exercised so as to destroy it is too obvious to be denied. But taxation is said to be an absolute power, which acknowledges no other limits than those prescribed by the Constitution, and, like sovereign power of any description, is trusted to the discretion of those who use it. But the very terms of this argument admit that the sovereignty of the State in the article of taxation is subordinate to and may be controlled by the Constitution of the United States." Again he says: "We find then on just theory a total failure of the original right to tax the means employed by the Government of the Union for the execution of its powers. The right never existed, and the question of its surrender cannot arise. * * "That the power to tax involves the power to destroy: that the power to destroy may defeat and render useless the power to create; that there is a plain repugnance in conferring on one government a power to control the constitutional measures of another, which other, with respect to those very means, is declared to be supreme over that which exerts the control are propositions not to be denied. If the States may tax one instrument employed by the Government in the execution of its powers, they may tax any and every other instrument. They may tax the mail; they may tax the mint; they may tax patent rights; they may tax the papers of the custom-house; they may tax judicial process; they may tax all the means employed by the Government to an excess which would defeat all the ends of Government. This was not intended by the American people. They did not design to make their Government dependent on the States."

It will be observed that it was not the extent of the tax in that case which was complained of, but the right to levy any tax of that char-

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acter. So, in the case before us, it may be said that a tax of one dollar for passing through the State of Nevada, by stage coach or by railroad, cannot sensibly affect any function of the Government, or deprive a citizen of any valuable right. But if the State can tax a railroad passenger one dollar, it can tax him one thousand dollars. If one State can do this, so can every other State. And thus one or more States, covering the only practicable routes of travel from the east to the west, or from the north to the south, may totally prevent or seriously burden all transportation of passengers from one part of the country to the other.

A case of another character, in which the taxing power, as exercised by a State, was held void, because repugnant to the Federal Constitution, is that of Brown *vs.* The State of Maryland, (12 Wheaton, 412)

The State of Maryland required all importers of foreign merchandize who sold the same by wholesale, by bale or by package, to take out a license, and this act was claimed to be unconstitutional. The court held it to be so on three different grounds: first, that it was a duty on imports; second, that it was a regulation of commerce; and, third, that the importer who had paid the duties imposed by the United States had acquired a right to sell his goods in the same original packages in which they were imported. To say nothing of the first and second grounds, we have in the third a tax of a State declared to be void because it interfered with the exercise of a right derived by the importer from the laws of the United States. If the right of passing through a State by a citizen of the United States is one guarantied to him by the Constitution, it must be as sacred from State taxation as the right derived by the importer from the payment of duties to sell the goods on which the duties were paid.

In the case of Weston *vs.* The City of Charleston, (2 Peters, 447,) we have a case of State taxation of still another class, held to be void as an interference with the rights of the Federal Government. The tax in that instance was imposed on bonds or stocks of the United States, in common with all other securities of the same character. It was held by the court that the free and successful operation of the Government required it at times to borrow money; that to borrow money it was necessary to issue this class of national securities, and that if the States could tax these securities, they might so tax them as to seriously impair or totally destroy the power of the Government to borrow. This case, itself based on the doctrines advanced by the court in McCulloch *vs.* The State of Maryland, has been followed in all the recent cases involving State taxation of Government bonds, from that of The People of New York *vs.* Tax Commissioners, (2 Black, 620.) to the decisions of the court at this term.

In all these cases the opponents of the taxes levied by the States were able to place their opposition on no express provision of the Constitution, except in that of Brown *vs.* Maryland. But in all the other cases, and in that case also, the court distinctly placed the invalidity of the State taxes on the ground that they interfered with an authority of the Federal Government, which was itself only to be sustained as necessary and proper to the exercise of some other power expressly granted.

In the Passenger Cases, to which reference has already been made, Justice Grier, with whom Justice Catron concurred, makes this one of the four propositions on which they held the tax void in those cases. Judge Wayne expresses his assent to Judge Grier's views; and perhaps this ground received the concurrence of more of the members of the court who constituted the majority than any other.

But the principles here laid down may be found more clearly stated in the dissenting opinion of the Chief Justice in those cases, and with more direct pertinency to the case now before us, than anywhere else.

After expressing his views fully in favor of the validity of the tax, which he said had exclusive reference to foreigners, so far as those cases were concerned, he proceeds to say, for the purpose of preventing misapprehension, that so far as the tax affected American citizens it could not in his opinion be maintained. He then adds: "Living as we do under a common government, charged with the great concerns of the whole Union, every citizen of the United States, from the most remote States or Territories, is entitled to free access, not only to the principal departments established at Washington, but also to its judicial tribunals and public offices in every State in the Union. * * * For all the great purposes for which the Federal Government was formed we are one people, with one common country. We are all citizens of the United States, and as members of the same community must have the right to pass and repass through every part of it without interruption as freely as in our own States. And a tax imposed by a State for entering its territories or harbors is inconsistent with the rights which belong to citizens of other States as members of the Union, and with the objects which that Union was intended to attain. Such a power in the States could produce nothing but discord and mutual irritation, and they very clearly do not possess it."

Although these remarks are found in a dissenting opinion, they do not relate to the matter on which the dissent was founded. They accord with the inferences which we have already drawn from the Constitution itself, and from the decisions of this court in exposition of that instrument.

Those principles, as we have already stated them in this opinion, must govern the present case.

The judgment of the Supreme Court of the State of Nevada is therefore reversed, and the case remanded to that court, with directions to discharge the plaintiff in error from custody.

Mr. Justice Clifford: I agree that the State law in question is unconstitutional and void, but I am not able to concur in the principal reasons assigned in the opinion of the court in support of that conclusion.

On the contrary, I hold that the act of the State legislature is inconsistent with the power conferred upon Congress to regulate commerce among the several States, and I think the judg-

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ment of the court should have been placed exclusively upon that ground.

Strong doubts are entertained by me whether Congress possesses the power to levy any such tax; but whether so or not, I am clear that the State legislature cannot impose any such burden upon commerce among the several States. Such commerce is secured against such legislation in the States by the Constitution, irrespective of any congressional action.

The Chief Justice also dissents, and concurs in the views I have expressed.

On State Taxation of United States Certificates of Indebtedness.

DECEMBER TERM, 1868.

The People of the State of New York, *ex rel.* The Bank of New York National Banking Association, plaintiffs in error,
No. 246. *vs.*
Richard B. Connolly, comptroller, and John T. Hoffman, mayor, &c., *et al.*
The People of the State of New York, *ex rel.* The National Broadway Bank, plaintiffs in error,
No. 248. *vs.*
John T. Hoffman, mayor, and Richard T. Connolly, comptroller, etc.,
and
The People of the State of New York, *ex rel.* The National Bank of the Republic of the city of New York, plaintiffs in error,
No. 252. *vs.*
John T. Hoffman, mayor, Richard B. Connolly, comptroller of the city of New York, *et al.*

In error to the court of appeals of the State of N. York.

Mr. Chief Justice Chase delivered the opinion of the court in these causes.

These three cases present, under somewhat different forms, the same question, namely: Are the obligations of the United States, known as certificates of indebtedness, liable to be taxed by State legislation?

These three cases were argued and will be considered together.

In 1863 and in 1864 the proper officers of the State, acting under the laws of New York, assessed certain taxes upon the capital stock of the several banking associations in that State. Some of these banking associations resisted the collection of the tax on the ground that, though nominally imposed upon their respective capitals, it was in fact imposed upon the bonds and obligations of the United States, in which a large proportion of these capitals was invested, and which, under the Constitution and laws of the United States, were exempt from State taxation.

This question was brought before the court of appeals, which sustained the assessments, and disallowed the claim of the banking associations.

From this decision an appeal was taken to this court, upon the hearing of which, at the December term, 1864, it was adjudged that the taxes imposed upon the capitals of the associations were a tax upon the national bonds and obligations in which they were invested, and, therefore, so far, contrary to the Constitution of the United States.*

A mandate in conformity with this decision was sent to the court of appeals of New York, which court thereupon reversed its judgment, and entered a judgment agreeably to the mandate.

*2 Wall., 210.

Afterwards, on the 30th of April, 1866, the legislature of New York provided by law for refunding to the banking associations and other corporations in like condition the taxes of 1863 and 1864 collected upon that part of their capitals invested in securities of the United States exempt by law from taxation. The board of supervisors of the county of New York was charged with the duty of auditing and allowing, with the approval of the mayor of the city and the corporation counsel, the amount collected from each corporation for taxes on the exempt portion of its capital, together with costs, damages, and interest. Upon such auditing and allowance the sums awarded were to be paid to the corporations severally entitled by the issue to each of New York county seven per cent. bonds of equal amounts. These bonds were to be signed by the comptroller of the city of New York, countersigned by the mayor, and sealed with the seal of the board of supervisors, and attested by the clerk of the board.

Under this act the board of supervisors audited and allowed to the several institutions represented in the three cases under consideration their several claims for taxes collected upon the national securities held by them, including in this allowance the taxes paid on certificates of indebtedness, which the corporations claimed to be securities of the United States exempt from taxation.

But the comptroller, mayor, and clerk refused to sign, countersign, seal, and attest the requisite amount of bonds for payment, insisting that certificates of indebtedness were not exempt from taxation.

A writ of mandamus was thereupon sued out of the supreme court of New York for the purpose of compelling these officials to perform their alleged duties in this respect. An answer was filed, and the court, by its judgment, sustained the refusal. An appeal was taken to the court of appeals of New York, by which the judgment of the supreme court was affirmed. Writs of error, under the 25th section of the judiciary act, bring these judgments here for revision.

The first question to be considered is one of jurisdiction. It is insisted in behalf of the defendants in error that the judgment of the New York court of appeals is not subject to review in this court.

But is it not plain that, under the act of the legislature of New York, the banking associations were entitled to reimbursement by bonds of the taxes illegally collected from them in 1863 and 1864?

No objection was made in the State court to the process by which the associations sought to enforce the issue of the bonds to which they asserted their right. Mandamus to the officers charged with the execution of the State law seems to have been regarded on all hands as the appropriate remedy.

But it was objected on the part of those officers that the particular description of obligations, of the tax on which the associations claimed reimbursement, were not exempt from taxation. The associations, on the other hand, insisted that these obligations were exempt under the Constitution and laws of the United States. If they

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were so exempt, the associations were entitled to the relief which they sought. The judgment of the court of appeals denied the relief, upon the ground that certificates of indebtedness were not entitled to exemption. Is it not clear that in the case before the State court a right, privilege, or immunity was claimed under the Constitution or a statute of the United States, and that the decision was against the right, privilege, or immunity claimed, and, therefore, that the jurisdiction of this court to review that decision is within the express words of the amendatory act of February 5, 1867? There can be but one answer to this question. We can find no ground for doubt on the point of jurisdiction.

The general question upon the merits is this: Were the obligations of the United States known as certificates of indebtedness liable to State taxation?

If this question can be affirmatively answered, the judgments of the court of appeals must be affirmed; if not, they must be reversed.

Evidences of the indebtedness of the United States, held by individuals or corporations, and sometimes called stock or stocks, but recently better known as bonds or obligations, have uniformly been held by this court not to be liable to taxation under State legislation.

The authority to borrow money on the credit of the United States is, in the enumeration of the powers expressly granted by the Constitution, second in place, and only second in importance, to the authority to lay and collect taxes. Both are given as means to the exercise of the functions of Government under the Constitution, and both, if neither had been expressly conferred, would be necessarily implied from other powers; for no one will assert that without them the great powers—mentioning no others—to raise and support armies, to provide and maintain a navy, and to carry on war, could be exercised at all, or, if at all, with adequate efficiency.

And no one affirms that the power of the Government to borrow, or the action of the Government in borrowing, is subject to taxation by the States.

There are those, however, who assert that, although the States cannot tax the exercise of the powers of the Government, as for example in the conveyance of the mails, the transportation of troops, or the borrowing of money, they may tax the indebtedness of the Government when it assumes the form of obligations held by individuals, and so becomes in a certain sense private property.

This court, however, has constantly held otherwise.

Forty years ago, in the case of Weston *vs.* The City of Charleston, this court, speaking through Chief Justice Marshall, said:*

"The American people have conferred the power of borrowing money upon their Government, and by making that Government supreme have shielded its action in the exercise of that power from the action of the local governments. The grant of the power is incompatible with a restraining or controlling power, and the declaration of supremacy is a declaration that no such restraining or controlling power shall be exercised."

And, applying these principles, the court proceeded to say:

"The right to tax the contract to any extent, when made, must operate on the power to borrow before it is exercised and have a sensible influence on the contract. The extent of this influence depends on the will of a distinct government. To any extent, however inconsiderable, it is a burden upon the operations of the Government. It may be carried to an extent which shall arrest them entirely."

And finally:

"A tax on Government stock is thought by this court to be a tax on the contract, a tax on the power to borrow money on the credit of the United States, and consequently repugnant to the Constitution."

Nothing need be added to this, except that in no case decided since have these propositions been retracted or qualified. The last cases in which the power of the States to tax the obligations of the Government came directly in question were those of the Bank of Commerce *vs.* The City of New York, in 1862,* and the Bank Tax Case,† in 1865, in both of which the power was denied.

An attempt was made at the bar to establish a distinction between the bonds of the Government expressed for loans of money and the certificates of indebtedness for which the exemption was claimed. The argument was ingenious, but failed to convince us that such a distinction can be maintained. It may be admitted that these certificates were issued in payment of supplies and in satisfaction of demands of public creditors. But we fail to perceive either that there is a solid distinction between certificates of indebtedness issued for money borrowed and given to creditors and certificates of indebtedness issued directly to creditors in payment of their demands; or that such certificates, issued as a means of executing constitutional powers of the Government, other than of borrowing money, are not as much beyond control and limitation by the States through taxation as bonds or other obligations issued for loans of money.

The principle of exemption is, that the States cannot control the national Government within the sphere of its constitutional power, for there it is supreme; and cannot tax its obligations for payment of money issued for purposes within that range of powers, because such taxation necessarily implies the assertion of the right to exercise such control.

The certificates of indebtedness in the case before us are completely within the protection of this principle. For the public history of the country and the acts of Congress show that they were issued to creditors for supplies necessary to the Government in carrying on the recent war for the integrity of the Union and the preservation of our republican institutions. They were received instead of money at a time when full money payment for supplies was impossible, and, according to the principles of the cases to which we have referred, are as much beyond the taxing

*2 Peters, 467.

*2 Black., 628. †2 Wall., 200.

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power of the States as the operations themselves in furtherance of which they were issued.

It results that the several judgments of the court of appeals must be reversed.

On State Taxation of United States Notes.

No. 247.—DECEMBER TERM, 1868.

The People of the State of New York, *ex rel.* the Bank of New York, plaintiffs in error, *vs.* The Board of Supervisors of the County of New York. } In error to the court of appeals of the State of New York.

Mr. Chief Justice Chase delivered the opinion of the court.

This case differs from those just disposed of in two particulars: (1) That the board of supervisors, which in the other cases allowed and audited the claims of the banking associations, refused to allow the claim made in this case; and (2) that the exemption from State taxation claimed in this case was of United States notes, while in the other cases it was of certificates of indebtedness.

The mandamus in the State court was therefore directed, in the case now before us, to the board of supervisors, instead of the officers authorized to issue bonds, as in the cases already decided.

The judgment of the court of appeals sustained the action of the board, and the case is brought here by writ of error to that court.

The general question requiring consideration is, whether United States notes come under another rule in respect of taxation than that which applies to certificates of indebtedness.

The issues of United States notes were authorized by three successive acts. The first was the act of February 25, 1862;* the second the act of July 11, 1862;† and the third that of March 3, 1863.‡

Before either of these acts received the sanction of Congress the Secretary of the Treasury had been authorized by the act of July 17, 1861,§ to issue treasury notes not bearing interest, but payable on demand by the assistant treasurers at New York, Philadelphia, or Boston; and about three weeks later these notes, by the act of August 5, 1861.‖ had been made receivable generally for public dues. The amount of notes to be issued of this description was originally limited to fifty millions, but was afterwards, by the act of February 12, 1862,¶ increased to sixty millions.

These notes, made payable on demand and receivable for all public dues, including duties on imports always payable in coin, were practically equivalent to coin; and all public disbursements, until after the date of the act last mentioned, were made in coin or these notes.

In December, 1861, the State banks (and no others then existed) suspended payment in coin; and it became necessary to provide by law for the use of State bank notes, or to authorize the issue of notes for circulation under the authority of the national Government. The latter alternative was preferred, and in the necessity thus recognized originated the legislation providing at first for the emission of United States notes, and at a later period for the issue of the national bank currency.

Under the exigencies of the times it seems to have been thought inexpedient to attempt any provision for the redemption of the United States notes in coin. The law, therefore, directed that they should be made payable to bearer at the treasury of the United States, but did not provide for payment on demand. The period of payment was left to be determined by the public exigencies. In the meantime the notes were receivable in payment of all loans, and were, until after the close of our civil war, always practically convertible into bonds of the funded debt, bearing not less than five per cent. interest, payable in coin.

The act of February 25, 1862; provided for the issue of these notes to the amount of $150,000,000. The act of July 11, 1862, added another $150,000.000 to the circulation, reserving, however, $50,000,000 for the redemption of temporary loan, to be issued and used only when necessary for that purpose. Under the act of March 3, 1863, another issue of $150,000,000 was authorized, making the whole amount authorized $450,000,000, and contemplating a permanent circulation, until resumption of payment in coin, of $400,000,000.

It is unnecessary here to go further into the history of these notes, or to examine their relation to the national bank currency. That history belongs to another place, and the quality of these notes, as legal tenders, belongs to another discussion. It has been thought proper only to advert to the legislation by which these notes were authorized in order that their true character may be clearly perceived.

That these notes were issued under the authority of the United States, and as a means to ends entirely within the constitutional power of the Government, was not seriously questioned upon the argument.

But it was insisted that they were issued as money; that their controlling quality was that of money; and that therefore they were subject to taxation in the same manner and to the same extent as coin issued under like authority.

And there is certainly much force in the argument. It is clear that these notes were intended to circulate as money, and, with the national bank notes, to constitute the credit currency of the country.

Nor is it easy to see that taxation of these notes, used as money and held by individual owners, can control or embarrass the power of the Government in issuing them for circulation more than like taxation embarrasses its power in coining and issuing gold and silver money for circulation.

Apart from the quality of legal tender impressed upon them by acts of Congress, of which we now say nothing, their circulation as currency depends on the extent to which they are received in payment, on the quantity in circulation, and on the credit given to the promises they bear. In these respects they resemble the bank notes formerly issued as currency.

But, on the other hand, it is equally clear that these notes are obligations of the United States.

*12 U. S. Stat., 345. †12 U. S. Stat., 532. ‡12 U. S. Stat., 709. §12 U. S. Stat., 259, §6. ‖12 U. S. Stat., 313, §5. ¶12 U. S. Stat., 338.

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Their name imports obligation. Every one of them expresses upon its face an engagement of the nation to pay to the bearer a certain sum. The dollar note is an engagement to pay a dollar, and the dollar intended is the coined dollar of the United States—a certain quantity in weight and fineness of gold or silver, authenticated as such by the stamp of the Government. No other dollars had before been recognized by the legislation of the national Government as lawful money

Would, then, their usefulness and value as means to the exercise of the functions of government be injuriously affected by State taxation?

It cannot be said, as we have already intimated, that the same inconveniences as would arise from the taxation of bonds and other interest-bearing obligations of the Government would attend the taxation of notes issued for circulation as money. But we cannot say that no embarrassment would arise from such taxation. And we think it clearly within the discretion of Congress to determine whether, in view of all the circumstances attending the issue of the notes, their usefulness as a means of carrying on the Government would be enhanced by exemption from taxation; and within the constitutional power of Congress, having resolved the question of usefulness affirmatively, to provide by law for such exemption.

There remains, then, only this question: Has Congress exercised the power of exemption?

A careful examination of the acts under which they were issued has left no doubt in our minds upon that point.

The act of February, 1862,* declares that "all United States bonds and other securities of the United States held by individuals, associations, or corporations, within the United States, shall be exempt from taxation by or under State authority."

We have already said that these notes are obligations. They bind the national faith. They are, therefore, strictly securities. They secure the payment stipulated to the holders by the pledge of the national faith, the only ultimate security of all national obligations, whatever form they may assume.

And this provision is re-enacted in application to the second issue of United States notes by the act of July 11, 1863.†

And, as if to remove every possible doubt from the intention of Congress, the act of March 3, 1863,‡ which provides for the last issue of these notes, omits in its exemption clause the word "stocks," and substitutes for "other securities" the words, "Treasury notes or United States notes issued under the provisions of this act."

It was insisted at the bar that a measure of exemption in respect to the notes issued under this, different from that provided in the former acts in respect to the notes authorized by them, was intended. But we cannot yield our assent to this view. The rule established in the last act is in no respect inconsistent with that previously established. It must be regarded, therefore, as explanatory. It makes specific what was before expressed in general terms.

*12 U. S. Stat., 346, §2. †12 U. S. Stat., 546. ‡12 Stat., 709.

Our conclusion is, that United States notes are exempt, and, at the time the New York statutes were enacted, were exempt from taxation by or under State authority. The judgment of the court of appeals must therefore be reversed.

Clause making United States Notes a Legal Tender for Debts has no reference to State Taxes.

No. 5.—December Term, 1868.

The County of Lane, pl'ff in error, } In error to the supreme court of the
vs.
The State of Oregon. } State of Oregon.

Mr. Chief Justice Chase delivered the opinion of the court.

The State of Oregon, in April, 1865, filed a complaint against the county of Lane, in the circuit court of the State for that county, to recover $5,460 96 in gold and silver coin, which sum was alleged to have become due as State revenue from the county to the State on the 1st Monday of February, 1864.

To this complaint an answer was put in by the county, alleging a tender of the amount claimed by the State, made on the 23d day of January, 1864, to the State treasurer, at his office, in United States notes, and averring that the lawful money so tendered and offered was, in truth and fact, part of the first moneys collected and paid into the county treasury after the assessment of taxes for the year 1862.

To this answer there was a demurrer, which was sustained by the circuit court, and judgment was given that the plaintiff recover of the defendent the sum claimed in gold and silver coin, with costs of suit, and this judgment was affirmed upon writ of error by the supreme court of the State.

The case is brought here by writ of error to that court; and two propositions have been pressed upon our attention, ably and earnestly, in behalf of the plaintiff in error.

The *first* is, that the laws of Oregon did not require the collection in coin of the taxes in question, and that the treasurer of the county could not be required to pay to the treasurer of the State any other money than that in which the taxes were actually collected.

The *second* is, that the tender of the amount of taxes made to the treasurer of the State by the treasurer of the county in United States notes, was warranted by the acts of Congress authorizing the issue of these notes, and that the law of the State, if it required collection and payment in coin, was repugnant to these acts, and therefore void.

The first of these propositions will be first considered.

The answer avers substantially that the money tendered was part of the first moneys collected in Lane county after the assessment of 1863, and the demurrer admits the truth of the answer.

The fact therefore may be taken as established, that the taxes for that year in Lane county were collected in United States notes.

But was this in conformity with the laws of Oregon?

In this court the construction given by the State courts to the laws of a State relating to local affairs is uniformily received as the true construction, and the question first stated must have

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been passed upon, in reaching a conclusion upon the demurrer, both by the circuit court for the county and by the supreme court of the State. Both courts must have held that the statutes of Oregon, either directly or by clear implication, required the collection of taxes in gold and silver coin.

Nor do we perceive anything strained or unreasonable in this construction. The laws of Oregon, as quoted in the brief for the State, provided that "the sheriff shall pay over to the county treasurer the full amount of the State and school taxes in gold and silver coin;"* and that "the several county treasurers shall pay over to the State treasurer the State tax in gold and silver coin."†

It is certainly a legitimate if not a necessary inference that these taxes were required to be collected in coin. Nothing short of express words would warrant us in saying that the laws authorized collection in one description of money from the people and required payment over of the same taxes into the county and State treasuries in another.

If, in our judgment, however, this point were otherwise, we should still be bound by the soundest principles of judicial administration and by a long train of decisions in this court to regard the judgment of the supreme court of Oregon, so far as it depends on the right construction of the statutes of that State, as free from error.

The second proposition remains to be examined, and this inquiry brings us to the consideration of the acts of Congress authorizing the issue of the notes in which the tender was made.

The first of these was the act of February 25, 1862, which authorized the Secretary of the Treasury to issue, on the credit of the United States, $150,000 000 in United States notes, and provided that these notes "shall be receivable in payment of all taxes, internal duties, excises, debts, and demands due to the United States, except duties on imports, and of all claims and demands against the United States of every kind whatsoever, except interest on bonds and notes, which shall be paid in coin; and shall also be lawful money and legal tender in payment of all debts, public and private, within the United States, except duties on imports and interest as aforesaid."

The second act contains a provision nearly in the same words with that just recited, and under these two acts two-thirds of the entire issue was authorized. It is unnecessary, therefore, to refer to the third act, by which the notes to be issued under it are not in terms made receivable and payable, but are simply declared to be lawful money and a legal tender.

In the first act no emission was authorized of any notes under five dollars, nor in the other two of any under one dollar. The notes, authorized by different statutes, for parts of a dollar, were never declared to be lawful money or a legal tender.‡

It is obvious, therefore, that a legal tender in United States notes of the precise amount of taxes admitted to be due to the State could not be made. Coin was then and is now the only legal tender for debts less than one dollar.

In the view which we take of this case this is not important. It is mentioned only to show that the general words "all debts" were not intended to be taken in a sense absolutely literal.

We proceed then to inquire whether, upon a sound construction of the acts, taxes imposed by a State government upon the people of a State are debts within their true meaning.

In examining this question it will be proper to give some attention to the constitution of the States and to their relations as United States.

The people of the United States constitute one nation, under one government; and this government, within the scope of the powers with which it is invested, is supreme. On the other hand, the people of each State compose a State, having its own government, and endowed with all the functions essential to separate and independent existence. The States disunited might continue to exist. Without the States in union there could be no such political body as the United States.

Both the States and the United States existed before the Constitution. The people, through that instrument, established a more perfect union, by substituting a national Government, acting, with ample power, directly upon the citizens, instead of the confederate government which acted with powers, greatly restricted, only upon the States. But in many articles of the Constitution the necessary existence of the States, and, within their proper spheres, the independent authority of the States, is distinctly recognized. To them nearly the whole charge of interior regulation is committed or left; to them and to the people all powers not expressly delegated to the national Government are reserved. The general condition was well stated by Mr. Madison, in the Federalist, thus: "The federal and State governments are in fact but different agents and trustees of the people, constituted with different powers and designated for different purposes."

Now, to the existence of the States, themselves necessary to the existence of the United States, the power of taxation is indispensable. It is an essential function of government.

It was exercised by the colonies; and when the colonies became States, both before and after the formation of the confederation, it was exercised by the new governments.

Under the articles of confederation the Government of the United States was limited in the exercise of this power to requisitions upon the States, while the whole power of direct and indirect taxation of persons and property, whether by taxes on polls, or duties on imports, or duties on internal production, manufacture, or use, was acknowledged to belong exclusively to the States, without any other limitation than that of noninterference with certain treaties made by Congress.

The Constitution, it is true, greatly changed this condition of things. It gave the power to tax, both directly and indirectly, to the national Government, and, subject to the one prohibition of any tax upon exports and to the conditions of uniformity in respect to indirect and of propor-

*Statutes of Oregon, 438, §32. †Ibid., 441, §46. ‡12 U. S. Stat., 592; Ibid., 711.

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tion in respect to direct taxes, the power was given without any express reservation.

On the other hand, no power to tax exports, or imports except for a single purpose and to an insignificant extent, or to lay any duty on tonnage, was permitted to the States. In respect, however, to property, business, and persons within their respective limits, their power of taxation remained and remains entire. It is indeed a concurrent power, and in the case of a tax on the same subject by both Governments, the claim of the United States, as the supreme authority, must be preferred; but with this qualification it is absolute.

The extent to which it shall be exercised, the subjects upon which it shall be exercised, and the mode in which it shall be exercised are all equally within the discretion of the legislatures to which the States commit the exercise of the power. That discretion is restrained only by the will of the people expressed in the State constitutions or through elections, and by the condition that it must not be so used as to burden or embarrass the operations of the national Government.

There is nothing in the Constitution which contemplates or authorizes any direct abridgement of this power by national legislation. To the extent just indicated it is as complete in the States as the like power, within the limits of the Constitution, is complete in Congress.

If, therefore, the condition of any State, in the judgment of its legislature, requires the collection of taxes in kind, that is to say, by the delivery to the proper officers of a certain proportion of products, or in gold and silver bullion, or in gold and silver coin, it is not easy to see upon what principle the national legislature can interfere with the exercise, to that end, of this power, original in the States, and never as yet surrendered.

If this be so, it is certainly a reasonable conclusion that Congress did not intend, by the general terms of the currency acts, to restrain the exercise of this power in the manner shown by the statutes of Oregon.

Other considerations strengthen this conclusion. It cannot escape observation that the provision intended to give currency to the United States notes in the two acts of 1862 consists of two quite distinguishable clauses. The first of these clauses makes those notes receivable in payment of all dues to the United States, and payable in satisfaction of all demands against the United States, with specified exceptions; the second makes them lawful money, and a legal tender in payment of debts, public and private, within the United States, with the same exceptions.

It seems quite probable that the first clause only was in the original bill, and that the second was afterwards introduced during its progress into an act.

However this may be, the fact that both clauses were made part of the act of February, and were retained in the act of July, 1862, indicates clearly enough the intention of Congress that both shall be construed together. Now, in the first clause, taxes are plainly distinguished, in enumeration, from debts; and it is not an unreasonable inference that the word debts in the other clause was not intended to include taxes.

It must be observed that the first clause, which may be called the receivability and payability clause, imposes no restriction whatever upon the States in the collection of taxes. It makes the notes receivable for national taxes, but does not make them receivable for State taxes. On the contrary, the express reference to receivability by the national Government, and the omission of all reference to receivability by the State governments, excludes the hypothesis of an intention on the part of Congress to compel the States to receive them as revenue.

And it must also be observed that any construction of the second, or, as it may well enough be called, legal-tender clause, that includes dues for taxes under the words debts, public and private, must deprive the first clause of all effect whatever. For if those words, rightly apprehended, include State taxes, they certainly include national taxes also; and if they include national taxes, the clause making them receivable for such taxes was wholly unnecessary and superfluous.

It is also proper to be observed that a technical construction of the words in question might defeat the main purpose of the act, which doubtless was to provide a currency in which the receipts and payments incident to the exigencies of the then existing civil war might be made.

In his work on the Constitution, the late Mr. Justice Story, whose praise as a jurist is in all civilized lands, speaking of the clause in the Constitution giving to Congress the power to lay and collect taxes, says of the theory which would limit the power to the object of paying the debts, that, thus limited, it would be only a power to provide for the payment of debts *then existing*.* And certainly, if a narrow and limited interpretation would thus restrict the word debts in the Constitution, the same sort of interpretation would in like manner restrict the same word in the act.

Such an interpretation needs only to be mentioned to be rejected. We refer to it only to show that a right construction must be sought through larger and less technical views.

We may, then, safely decline either to limit the word debts to existing dues, or to extend its meaning so as to embrace all dues of whatever origin and description.

What then is its true sense? The most obvious, and, as it seems to us, the most rational answer to this question is, that Congress must have had in contemplation debts originating in contract or demands carried into judgment, and only debts of this character. This is the commonest and most natural use of the word. Some strain is felt upon the understanding when an attempt is made to extend it so as to include taxes imposed by legislative authority, and there should be no such strain in the interpretation of a law like this.

We are the more ready to adopt this view, because the greatest of English elementary writers upon law, when treating of debts in their various descriptions, gives no hint that

*1 Story on Cons., 639, §921.

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taxes come within either:* while American State courts of the highest authority have refused to treat liabilities for taxes as debts, in the ordinary sense of that word, for which actions of debt may be maintained.

The first of these cases was that of Pierce vs. The City of Boston,† 1842, in which the defendant attempted to set off against a demand of the plaintiff certain taxes due to the city. The statute allowed mutual debts to be set off, but the court disallowed the right to set off taxes. This case went, indeed, upon the construction of the statute of Massachusetts, and did not turn on the precise point before us; but the language of the court shows that taxes were not regarded as debts within the common understanding of the word.

The second case was that of Shaw vs. Pickett,‡ in which the supreme court of Vermont said: "The assessment of taxes does not create a debt that can be enforced by suit, or upon which a promise to pay interest can be implied. It is a proceeding *in invitum*."

The next case was that of the City of Camden vs. Allen‖ 1857. That was an action of debt brought to recover a tax by the municipality to which it was due. The language of the supreme court of New Jersey was still more explicit: "A tax, in its essential characteristics," said the court, "is not a debt, nor in the nature of a debt. A tax is an impost levied by authority of government upon its citizens or subjects for the support of the State. It is not founded on contract or agreement. It operates *in invitum*. A debt is a sum of money due by certain and express agreement. It originates in and is founded upon contracts express or implied."

These decisions were all made before the acts of 1862 were passed, and they may have had some influence upon the choice of the words used.

Be this as it may, we all think that the interpretation which they sanction is well warranted.

We cannot attribute to the legislature an intent to include taxes under the term debts without something more than appears in the acts to show that intention.

The supreme court of California, in 1862, had the construction of these acts under consideration in the case of Perry *vs.* Washburn.§ The decisions which we have cited were referred to by Chief Justice Field, now holding a seat on this bench, and the very question we are now considering, "What did Congress intend by the act?" was answered in these words: "Upon this question we are clear, that it only intended by the terms debts, public and private, such obligations for the payment of money as are founded upon contract."

In whatever light, therefore, we consider this question, whether in the light of the conflict between the legislation of Congress and the taxing power of the States to which the interpretation insisted on in behalf of the county of Lane would give occasion, or in the light of the language of the acts themselves, or in the light of the decisions to which we have referred, we find ourselves brought to the same conclusion, that the clause making the United States notes a legal tender for debts has no reference to taxes imposed by State authority, but relates only to debts, in the ordinary sense of the word, arising out of simple contracts or contracts by specialty, which include judgments and recognizances.*

Whether the word debts, as used in the act, includes obligations expressly made payable, or adjudged to be paid in coin, has been argued in another case. We express at present no opinion on that question.

The judgment of the supreme court of Oregon must be affirmed.

*2 Black. Com., 475, 476. †3 Met., 520. ‡26 Vt., 486. ‖2 Dutch., 398. §20 California, 350.

Express Contracts to Pay Coined Dollars can only be satisfied by the Payment of Coined Dollars.

No. 89.—DECEMBER TERM, 1868.

Frederick Bronson, executor of the last will and testament of Arthur Bronson, deceased, plaintiff in error, *vs.* Peter Rodes. } In error to the court of appeals of the State of New York.

Mr. Chief Justice Chase delivered the opinion of the court.

This case comes before us upon a writ of error to the supreme court of New York.

The facts shown by the record may be briefly stated.

In December, 1851, one Christian Metz, having borrowed of Frederick Bronson, executor of Arthur Bronson, $1,400, executed his bond for the repayment to Bronson of the principal sum borrowed on the 18th day of January, 1857, in gold and silver coin, lawful money of the United States, with interest also in coin until such repayment, at the yearly rate of seven per cent.

To secure these payments, according to the bond, at such place as Bronson might appoint, or, in default of such appointment, at the Merchants' Bank of New York, Metz executed a mortgage upon certain real property, which was afterwards conveyed to Rodes, who assumed to pay the mortgage debt, and did, in fact, pay the interest until and including the 1st day of January, 1864.

Subsequently, in January, 1865, there having been no demand of payment nor any appointment of a place of payment by Bronson, Rodes tendered to him United States notes to the amount of $1,507, a sum nominally equal to the principal and interest due upon the bond and mortgage.

At that time one dollar in coin was equivalent in market value to two dollars and a quarter in United States notes.

This tender was refused, whereupon Rodes deposited the United States notes in the Merchants' Bank to the credit of Bronson, and filed his bill in equity praying that the mortgaged premises might be relieved from the lien of the mortgage, and that Bronson might be compelled to execute and deliver to him an acknowledgment of the full satisfaction and discharge of the mortgage debt.

The bill was dismissed by the supreme court sitting in Erie county; but, on appeal to the supreme court in general term, the decree of dismissal was reversed, and a decree was entered adjudging that the mortgage had been satisfied

*1 Parsons on Contracts, 7.

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by the tender, and directing Bronson to satisfy the same of record; and this decree was affirmed by the court of appeals.

The question which we have to consider, therefore, is this:

Was Bronson bound by law to accept from Rodes United States notes equal in nominal amount to the sum due him as full performance and satisfaction of a contract which stipulated for the payment of that sum in gold and silver coin, lawful money of the United States?

It is not pretended that any real payment and satisfaction of an obligation to pay fifteen hundred and seven coined dollars can be made by the tender of paper money worth in the market only six hundred and seventy coined dollars. The question is, does the law compel the acceptance of such a tender for such a debt?

It is the appropriate function of courts of justice to enforce contracts according to the lawful intent and understanding of the parties.

We must, therefore, inquire what was the intent and understanding of Frederick Bronson and Christian Metz when they entered into the contract under consideration in December, 1851.

And this inquiry will be assisted by reference to the circumstances under which the contract was made.

Bronson was an executor, charged as a trustee with the administration of an estate. Metz was a borrower from the estate. It was the clear duty of the former to take security for the full repayment of the money loaned to the latter.

The currency of the country at the time consisted mainly of the circulating notes of State banks, convertible, under the laws of the States, into coin, on demand. This convertibility, though far from perfect, together with the acts of Congress which required the use of coin for all receipts and disbursements of the national Government, insured the presence of some coin in the general circulation; but the business of the people was transacted almost entirely through the medium of bank notes. The State banks had recently emerged from a condition of great depreciation and discredit, the effects of which were still widely felt, and the recurrence of a like condition was not unreasonably apprehended by many. This apprehension was, in fact, realized by the general suspension of coin payments, which took place in 1857, shortly after the bond of Metz became due.

It is not to be doubted, then, that it was to guard against the possibility of loss to the estate, through an attempt to force the acceptance of a fluctuating and perhaps irredemable currency in payment, that the express stipulation for payment in gold and silver coin was put into the bond. There was no necessity in law for such a stipulation, for at that time no money, except of gold or silver, had been made a legal tender. The bond, without any stipulation to that effect, would have been legally payable only in coin. The terms of the contract must have been selected, therefore, to fix definitely the contract between the parties, and to guard against any possible claim that payment in the ordinary currency ought to be accepted.

The intent of the parties is, therefore, clear. Whatever might be the forms or the fluctuations of the note currency, this contract was not to be affected by them. It was to be paid, at all events, in coined lawful money.

We have just adverted to the fact that the legal obligation of payment in coin was perfect without express stipulation. It will be useful to consider somewhat further the precise import in law of the phrase "dollars payable in gold and silver coin, lawful money of the United States."

To form a correct judgment on this point, it will be necessary to look into the statutes regulating coinage. It would be instructive, doubtless, to review the history of coinage in the United States, and the succession of statutes by which the weight, purity, forms, and impressions of the gold and silver coins have been regulated; but it will be sufficient for our purpose if we examine three only—the acts of April 2, 1792,* of January 18, 1837,† and March 3, 1849.‡

The act of 1792 established a mint for the purpose of a national coinage. It was the result of very careful and thorough investigations of the whole subject, in which Jefferson and Hamilton took the greatest parts; and its general principles have controlled all subsequent legislation. It provided that the gold of coinage, or standard gold, should consist of eleven parts fine and one part alloy, which alloy was to be of silver and copper in convenient proportions, not exceeding one-half silver, and that the silver of coinage should consist of fourteen hundred and eighty-five parts fine and one hundred and seventy-nine parts of an alloy wholly of copper.

The same act established the dollar as the money unit, and required that it should contain four hundred and sixteen grains of standard silver. It provided further for the coinage of half-dollars, quarter-dollars, dimes, and half dimes, also of standard silver, and weighing respectively a half, a quarter, a tenth, and a twentieth of the weight of the dollar. Provision was also made for a gold coinage, consisting of eagles, half-eagles, and quarter-eagles, containing, respectively, two hundred and ninety, one hundred and thirty-five, and sixty-seven and a half grains of standard gold, and being of the value, respectively, of ten dollars, five dollars, and two-and-a-half dollars.

These coins were made a lawful tender in all payments, according to their respective weights of silver or gold; if of full weight, at their declared values, and if of less, at proportional values. And this regulation as to tender remained in full force until 1837.

The rule prescribing the composition of alloy has never been changed; but the proportion of alloy to fine gold and silver, and the absolute weight of coins, have undergone some alteration, partly with a view to the better adjustment of the gold and silver circulations to each other, and partly for the convenience of commerce.

The only change of sufficient importance to require notice, was that made by the act of 1837.‖ That act directed that standard gold, and standard silver also, should thenceforth consist of nine parts pure and one part alloy; that the weight of standard gold in the eagle should be two hun-

*1 U. S. Stat., 246. †5 U. S. Stat., 136. ‡9 U. S. Stat., 397. ‖5 U. S. Stat., 137.

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dred and fifty-eight grains, and in the half eagle and quarter-eagle, respectively, one-half and one-quarter of that weight precisely; and that the weight of standard silver should be in the dollar four hundred twelve and a half grains, and in the half dollar, quarter-dollar, dimes, and half-dimes, exactly one-half, one-quarter, one-tenth, and one-twentieth of that weight.

The act of 1849* authorized the coinage of gold double-eagles and gold dollars conformably in all respects to the established standards, and, therefore, of the weights respectively of five hundred and sixteen grains and twenty-five and eight-tenths of a grain.

The methods and machinery of coinage had been so improved before the act of 1837 was passed, that unavoidable deviations from the prescribed weight became almost inappreciable; and the most stringent regulations were enforced to secure the utmost attainable exactness, both in weight and purity of metal.

In single coins the greatest deviation tolerated in the gold coins was half a grain in the double-eagle, eagle, or half eagle, and a quarter of a grain in the quarter eagle or gold dollar;† and in the silver coins, a grain and a half in the dollar and half-dollar, and a grain in the quarter-dollar, and half a grain in the dime and half dime.‡

In 1849 the limit of deviation in weighing large numbers of coins on delivery by the chief coiner to the treasurer and by the treasurer to depositors was still further narrowed.

With these and other precautions against the emission of any piece inferior in weight or purity to the prescribed standard, it was thought safe to make the gold and silver coins of the United States legal tender in all payments according to their nominal or declared values. This was done by the act of 1837. Some regulations as to the tender, for small loans, of coins of less weight and purity have been made; but no other provision than that made in 1837, making coined money a legal tender in all payments, now exists upon the statute-books.

The design of all this minuteness and strictness in the regulation of coinage is easily seen. It indicates the intention of the legislature to give a sure guaranty to the people that the coins made current in payments contain the precise weight of gold or silver of the precise degree of purity declared by the statute. It recognizes the fact, accepted by all men throughout the world, that value is inherent in the precious metals; that gold and silver are in themselves values, and being such, and being in other respects best adapted to the purpose, are the only proper measures of value; that these values are determined by weight and purity; and that form and impress are simply certificates of value, worthy of absolute reliance only because of the known integrity and good faith of the Government which gives them.

The propositions just stated are believed to be incontestible. If they are so in fact, the inquiry concerning the legal import of the phrase "dollars payable in gold and silver coin, lawful money of the United States," may be answered without much difficulty. Every such dollar is a piece of gold or silver, certified to be of a certain weight and purity by the form and impress given to it at the mint of the United States, and therefore declared to be legal tender in payments. Any number of such dollars is the number of grains of standard gold or silver in one dollar multiplied by the given number.

Payment of money is delivery by the debtor to the creditor of the amount due. A contract to pay a certain number of dollars in gold or silver coins is, therefore, in legal import, nothing else than an agreement to deliver a certain weight of standard gold, to be ascertained by a count of coins, each of which is certified to contain a definite proportion of that weight. It is not distinguishable, as we think, in principle, from a contract to deliver an equal weight of bullion of equal fineness. It is distinguishable, in circumstance, only by the fact that the sufficiency of the amount to be tendered in payment must be ascertained, in the case of bullion, by assay and the scales, while in the case of coin it may be ascertained by count.

We cannot suppose that it was intended by the provisions of the currency acts to enforce satisfaction of either contract by the tender of depreciated currency of any description equivalent only in nominal amount to the real value of the bullion or of the coined dollars. Our conclusion, therefore, upon this part of the case is, that the bond under consideration was in legal import precisely what it was in the understanding of the parties, a valid obligation, to be satisfied by a tender of actual payment according to its terms, and not by an offer of mere nominal payment. Its intent was that the debtor should deliver to the creditor a certain weight of gold and silver, of a certain fineness, ascertainable by count of coins made legal tender by statute, and this intent was lawful.

Arguments and illustrations of much force and value in support of this conclusion might be drawn from the possible case of the repeal of the legal-tender laws relating to coin, and the consequent reduction of coined money to the legal condition of bullion, and also from the actual condition of partial demonetization to which gold and silver money was reduced by the introduction into circulation of the United States notes and national bank currency; but we think it unnecessary to pursue this branch of the discussion further.

Nor do we think it necessary now to examine the question whether the clauses of the currency acts making the United States notes a legal tender are warranted by the Constitution. But we will proceed to inquire whether, upon the assumption that those clauses are so warranted, and upon the further assumption that engagements to pay coined dollars may be regarded as ordinary contracts to pay money rather than as contracts to deliver certain weights of standard gold, it can be maintained that a contract to pay coined money may be satisfied by a tender of United States notes.

Is this a performance of the contract within the true intent of the acts?

It must be observed that the laws for the coinage of gold and silver have never been repealed or modified. They remain on the statute-

*9 U. S. Stat., 793. †19 U. S. Stat., 398. ‡15 U. S. Stat., 137.

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book in full force; and the emission of gold and silver coins from the mint continues, the actual coinage during the last fiscal year having exceeded, according to the report of the director of the mint, $19,000,000.

Nor have those provisions of law which make these coins a legal tender in all payments been repealed or modified.

It follows that there were two descriptions of money in use at the time the tender under consideration was made, both authorized by law, and both made legal tender in payments. The statute denomination of both descriptions was dollars; but they were essentially unlike in nature. The coined dollar was, as we have said, a piece of gold or silver of a prescribed degree of purity, weighing a prescribed number of grains The note dollar was a promise to pay a coined dollar; but it was not a promise to pay on demand nor at any fixed time, nor was it, in fact, convertible into a coined dollar. It was impossible, in the nature of things, that these two dollars should be the actual equivalents of each other, nor was there anything in the currency acts purporting to make them such. How far they were, at that time, from being actual equivalents has been already stated.

If, then, no express provision to the contrary be found in the acts of Congress, it is a just, if not a necessary inference, from the fact that both descriptions of money were issued by the same Government, that contracts to pay in either were equally sanctioned by law. It is, indeed, difficult to see how any question can be made on this point. Doubt concerning it can only spring from that confusion of ideas which always attends the introduction of varying and uncertain measures of value into circulation as money.

The several statutes relating to money and legal tender must be construed together. Let it be supposed then that the statutes providing for the coinage of gold and silver dollars are found among the statutes of the same Congress which enacted the laws for the fabrication and issue of note dollars, and that the coinage and note acts, respectively, make coined dollars and note dollars legal tender in all payments, as they actually do. Coined dollars are now worth more than note dollars; but it is not impossible that note dollars actually convertible into coin at the chief commercial centres, receivable everywhere for all public dues, and made, moreover, a legal tender everywhere for all debts, may become, at some points, worth more than coined dollars. What reason can be assigned now for saying that a contract to pay coined dollars must be satisfied by the tender of an equal number of note dollars, which will not be equally valid then for saying that a contract to pay note dollars must be satisfied by the tender of an equal number of coined dollars?

It is not easy to see how difficulties of this sort can be avoided except by the admission that the tender must be according to the terms of the contract.

But we are not left to gather the intent of these currency acts from mere comparison with the coinage acts. The currency acts themselves provide for payments in coin. Duties on imports must be paid in coin, and interest on the public debt, in the absence of other express provisions, must also be paid in coin. And it hardly requires argument to prove that these positive requirements cannot be fulfilled if contracts between individuals to pay coin dollars can be satisfied by offers to pay their nominal equivalent in note dollars. The merchant who is to pay duties in coin must contract for the coin which he requires; the bank which receives the coin on deposit contracts to repay coin on demand; the messenger who is sent to the bank or the custom-house contracts to pay or deliver the coin according to his instructions. These are all contracts, either express or implied, to pay coin. Is it not plain that duties cannot be paid in coin if these contracts cannot be enforced?

An instructive illustration may be derived from another provision of the same acts. It is expressly provided that all dues to the Government, except for duties on imports, may be paid in United States notes. If, then, the Government, needing more coin than can be collected from duties, contracts with some bank or individual for the needed amount, to be paid at a certain day, can this contract for coin be performed by the tender of an equal amount in note dollars? Assuredly it may, if the note dollars are a legal tender to the Government for all dues except duties on imports. And yet a construction which will support such a tender will defeat a very important intent of the act.

Another illustration, not less instructive, may be found in the contracts of the Government with the depositors of bullion at the mint to pay them the ascertained value of their deposits in coin. These are demands against the Government other than for interest on the public debt; and the letter of the acts certainly makes United States notes payable for all demands against the Government except such interest. But can any such construction of the act be maintained? Can judicial sanction be given to the proposition that the Government may discharge its obligation to the depositors of bullion by tendering them a number of note dollars equal to the number of gold or silver dollars which it has contracted by law to pay?

But we need not pursue the subject further. It seems to us clear beyond controversy, that the act must receive the reasonable construction, not only warranted, but required by the comparison of its provisions with the provisions of other acts, and with each other; and that upon such reasonable construction it must be held to sustain the proposition that express contracts to pay coined dollars can only be satisfied by the payment of coined dollars. They are not "*debts*" which may be satisfied by the tender of United States notes.

It follows that the tender under consideration was not sufficient in law, and that the decree directing satisfaction of the mortgage was erroneous.

Some difficulty has been felt in regard to the judgments proper to be entered upon contracts for the payment of coin. The difficulty arises from the supposition that damages can be assessed only in one description of money. But the act of 1792 provides that "the money of account of the United States shall be expressed in dol-

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lars, dimes, cents, and mills, and that all accounts in the public offices, and all proceedings in the courts of the United States, shall be kept and had in conformity to these regulations."

This regulation is part of the first coinage act, and doubtless has reference to the coins provided for by it. But it is a general regulation, and relates to all accounts and all judicial proceedings. When, therefore, two descriptions of money are sanctioned by law, both expressed in dollars and both made current in payments, it is necessary, in order to avoid ambiguity and prevent a failure of justice, to regard this regulation as applicable alike to both. When, therefore, contracts made payable in coin are sued upon, judgments may be entered for coined dollars and parts of dollars: and when contracts have been made payable in dollars generally, without specifying in what description of currency payment is to be made, judgments may be entered generally, without such specification.

We have already adopted this rule as to judgments for duties by affirming a judgment of the circuit court for the district of California,* in favor of the United States, for $1.388 10, payable in gold and silver coin, and judgments for express contracts between individuals for the payment of coin may be entered in like manner.

It results that the decree of the court of appeals of New York must be reversed, and the cause remanded to that court for further proceedings.

Mr. Justice Davis, concurring in the result, said:

I assent to the result which a majority of the court have arrived at, that an express contract to pay coin of the United States, made before the act of February 25, 1862, commonly called the legal-tender act, is not within the clause of that act which makes treasury notes a legal tender in payment of debts; but I think it proper to guard against all possibility of misapprehension, by stating that if there be any reasoning in the opinion of the majority which can be applicable to any other class of contracts, it does not receive my assent.

Mr Justice Swayne said:

I concur in the conclusion announced by the Chief Justice.

My opinion proceeds entirely upon the language of the contract and the construction of the statutes

The question of the constitutional power of Congress, in my judgment, does not arise in the case.

Dissenting Opinion.

Mr. Justice Miller, dissenting:

I do not agree to the judgment of the court in this case, and shall, without apology, make a very brief statement of my reasons for believing that the judgment of the court of appeals of New York should be affirmed. The opinion just read correctly states that the contract in this case, made before the passage of the act or acts commonly called the legal-tender acts, was an agreement to pay $1.400 "in gold and silver coin, lawful money of the United States." And I agree that it was the intention of both parties to this contract that it should be paid in coin. I go a step further than this, and agree that the legal effect of the contract, as the law stood when it was made, was that it should be paid in coin, and could be paid in nothing else. This was the conjoint effect of the contract of the parties and the law under which that contract was made.

But I do not agree that in this respect the contract under consideration differed, either in intention of the parties, or in its legal effect, from a contract to pay $1,400 without any further description of the dollars to be paid.

The only dollars which, by the laws then in force, or which ever had been in force since the adoption of the federal Constitution, could have been lawfully tendered in payment of any contract simply for dollars, were gold and silver.

These were the "lawful money of the United States" mentioned in the contract, and the special reference to them gave no effect to that contract beyond what the law gave.

The contract then did not differ, in its legal obligation, from any other contract payable in dollars. Much weight is attached in the opinion to the special intent of the parties in using the words gold and silver coin, but as I have shown that the intent thus manifested is only what the law would have implied if those words had not been used, I cannot see their importance in distinguishing this contract from others which omit these words Certainly every man who at that day received a note payable in dollars, expected and had a right to expect to be paid "in gold and silver coin, lawful money of the United States," if he chose to demand it. There was therefore no difference in the intention of the parties to such a contract, and an ordinary contract for the payment of money, so far as the right of the payee to exact coin is concerned. If I am asked why these words were used in this case I answer, that they were used out of abundant caution by some one not familiar with the want of power in the States to make legal-tender laws. It is very well known that under the system of State banks, which furnished almost exclusively the currency in use for a great many years prior to the issue of legal-tender notes by the United States, there was a difference between the value of that currency and gold, even while the bank notes were promptly redeemed in gold. And it was doubtless to exclude any possible assertion of the right to pay this contract in such bank notes that the words gold and silver coin were used, and not with any reference to a possible change in the laws of legal tender established by the United States, which had never, during the sixty years that the Government had been administered under the present Constitution, declared anything else to be a legal tender or lawful money but gold and silver coin.

But if I correctly apprehend the scope of the opinion delivered by the chief justice, the effort to prove for this contract a special intent of payment in gold is only for the purpose of bringing it within the principle there asserted, both by express words and by strong implication, that all contracts must be paid according to the intention of the parties making them. I think I am not mistaken in my recollection that it is

* Cheang-Kee *vs.* U. S., 3 Wall., 320.

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broadly stated that it is the business of courts of justice to enforce contracts as they are intended by the parties, and that the tender must be according to the intent of the contract.

Now, if the argument used to show the intent of the parties to the contract is of any value in this connection, it is plain that such intent must enter into, and form a controlling element in, the judgment of the court in construing the legal tender acts.

I shall not here consume time by any attempt to show that the contract in this case is a debt, or that when Congress said that the notes it was about to issue should be received as a legal tender in payment for *all private debts*, it intended that which these words appropriately convey. To assume that Congress did not intend by that act to authorize a payment by a medium differing from that which the parties intended by the contract is in contradiction to the express language of the statute, to the sense in which it was acted on by the people who paid and received those notes in discharge of contracts for incalculable millions of dollars, where gold dollars alone had been in contemplation of the parties, and to the decisions of the highest courts of fifteen States in the Union, being all that have passed upon the subject.

As I have no doubt that it was intended by those acts to make the notes of the United States to which they applied a legal tender for all private debts then due, or which might become due on contracts then in existence, without regard to the intent of the parties on that point, I must dissent from the judgment of the court, and from the opinion on which it is founded.

The Status of the State of Texas.

No. 6 (ORIGINAL.)—DECEMBER TERM, 1868.

The State of Texas, complainant,
vs.
George W. White, John Chiles, John A. Hardenberg, Samuel Wolf, George W. Stewart, The Branch of the Commercial Bank of Kentucky, Western F. Birch, Byron Murray, jr., and —— Shaw. } Bill in equity.

Mr. Chief Justice Chase delivered the opinion of the court.

This is an original suit in this court, in which the State of Texas, claiming certain bonds of the United States as her property, asks an injunction to restrain the defendants from receiving payment from the national Government, and to compel the surrender of the bonds to the State.

It appears from the bill, answers, and proofs, that the United States, by act of September 9, 1850, offered to the State of Texas, in compensation for her claims connected with the settlement of her boundary, $10,000,000 in five-per-cent. bonds, each for the sum of $1,000, and that this offer was accepted by Texas.

One-half of these bonds were retained for certain purposes in the national treasury, and the other half were delivered to the State.

The bonds thus delivered were dated January 1, 1851, and were all made payable to the State of Texas, or bearer, and redeemable after the 31st day of December, 1864.

They were received, in behalf of the State, by the comptroller of public accounts, under authority of an act of the legislature, which, besides giving that authority, provided that no bond should be available in the hands of any holder until after endorsement by the governor of the State.

After the breaking out of the rebellion, the insurgent legislature of Texas, on the 11th of January, 1862, repealed the act requiring the endorsement of the governor,* and on the same day provided for the organization of a military board, composed of the governor, comptroller, and treasurer, and authorized a majority of that board to provide for the defence of the State by means of any bonds in the treasury, upon any account, to the extent of $1,000,000.†

The defence contemplated by the act was to be made against the United States by war.

Under this authority the military board entered into an agreement with George W. White and John Chiles, two of the defendants, for the sale to them of one hundred and thirty-five of these bonds, then in the treasury of the State, and seventy-six more, then deposited with Droege & Co., in England, in payment for which they engaged to deliver to the board a large quantity of cotton cards and medicines. This agreement was made on the 12th of January, 1865.

On the 12th of March, 1865, White and Chiles received from the military board one hundred and thirty-five of these bonds, none of which were endorsed by any governor of Texas.

Afterward, in the course of the years 1865 and 1866, some of the same bonds came into the possession of others of the defendants by purchase, or as security for advances of money.

Such is a brief outline of the case. It will be necessary hereafter to refer more in detail to some particular circumstances of it.

The first inquiries to which our attention was directed by counsel arose upon the allegations of the answer of Chiles, (1,) that no sufficient authority is shown for the prosecution of the suit in the name and on the behalf of the State of Texas; and, (2,) that the State having severed her relations with a majority of the States of the Union, and having by her ordinance of secession attempted to throw off her allegiance to the Constitution and Government of the United States, has so far changed her status as to be disabled from prosecuting suits in the national courts.

The first of these allegations is disproved by the evidence. A letter of authority, the authenticity of which is not disputed, has been produced, in which J. W. Throckmorton, elected governor under the constitution adopted in 1866, and proceeding under an act of the State legislature relating to these bonds, expressly ratifies and confirms the action of the solicitors who filed the bill, and empowers them to prosecute this suit; and it is further proved by the affidavit of Mr. Paschal, counsel for the complainant, that he was duly appointed by Andrew J. Hamilton, while provisional governor of Texas, to represent the State of Texas in reference to the bonds in controversy, and that his appointment has been renewed by E. M. Pease, the actual governor. If Texas was a State of the Union at the time of these acts, and these persons, or either of them, were competent to represent the State, this proof

*Acts of Texas, 1862, p. 45. †Texas Laws, p. 55.

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leaves no doubt upon the question of authority.

The other allegation presents a question of jurisdiction. It is not to be questioned that this court has original jurisdiction of suits by States against citizens of other States, or that the States entitled to invoke this jurisdiction must be States of the Union. But it is equally clear that no such jurisdiction has been conferred upon this court of suits by any other political communities than such States.

If, therefore, it is true that the State of Texas was not at the time of filing this bill, or is not now, one of the United States, we have no jurisdiction of this suit, and it is our duty to dismiss it.

We are very sensible of the magnitude and importance of this question, of the interest it excites, and of the difficulty, not to say impossibility, of so disposing of it as to satisfy the conflicting judgments of men equally enlightened, equally upright, and equally patriotic. But we meet it in the case, and we must determine it in the exercise of our best judgment, under the guidance of the Constitution alone.

Some not unimportant aid, however, in ascertaining the true sense of the Constitution, may be derived from considering what is the correct idea of a State, apart from any union or confederation with other States. The poverty of language often compels the employment of terms in quite different significations; and of this hardly any example more signal is to be found than in the use of the word we are now considering. It would serve no useful purpose to attempt an enumeration of all the various senses in which it is used. A few only need be noticed.

It describes sometimes a people or community of individuals united more or less closely in political relations, inhabiting temporarily or permanently the same country; often it denotes only the country or territorial region inhabited by such a community; not unfrequently it is applied to the government under which the people live; at other times it represents the combined idea of people, territory, and government.

It is not difficult to see that in all these senses the primary conception is that of a people or community. The people, in whatever territory dwelling, either temporarily or permanently, and whether organized under a regular government, or united by looser and less definite relations, constitute the State.

This is undoubtedly the fundamental idea upon which the republican institutions of our own country are established. It was stated very clearly by an eminent judge* in one of the earliest cases adjudicated by this court, and we are not aware of anything in any subsequent decision of a different tenor.

In the Constitution the term State most frequently expresses the combined idea just noticed, of people, territory, and government. A State, in the ordinary sense of the Constitution, is a political community of free citizens, occupying a territory of defined boundaries, and organized under a government sanctioned and limited by a written constitution, and established by the consent of the governed. It is the union of such States under a common constitution which forms the distinct and greater political unit which that Constitution designates as the United States, and makes of the people and States which compose it one people and one country.

The use of the word in this sense hardly requires further remark. In the clauses which impose prohibitions upon the States in respect to the making of treaties, emitting of bills of credit, laying duties of tonnage, and which guaranty to the States representation in the House of Representatives and in the Senate, are found some instances of this use in the Constitution. Others will occur to every mind.

But it is also used in its geographical sense, as in the clauses which require that a representative in Congress shall be an inhabitant of the State in which he shall be chosen, and that the trial of crimes shall be held within the State where committed.

And there are instances in which the principal sense of the word seems to be that primary one to which we have adverted, of a people or political community, as distinguished from a government.

In this latter sense the word seems to be used in the clause which provides that the United States shall guaranty to every State in the Union a republican form of government, and shall protect each of them against invasion.

In this clause a plain distinction is made between a State and the government of a State.

Having thus ascertained the senses in which the word State is employed in the Constitution, we will proceed to consider the proper application of what has been said.

The republic of Texas was admitted into the Union as a State on the 27th of December, 1845. By this act the new State, and the people of the new State, were invested with all the rights, and became subject to all the responsibilities and duties, of the original States under the Constitution.

From the date of admission until 1861, the State was represented in the Congress of the United States by her Senators and Representatives, and her relations as a member of the Union remained unimpaired. In that year, acting upon the theory that the rights of a State under the Constitution might be renounced, and her obligations thrown off at pleasure, Texas undertook to sever the bond thus formed, and to break up her constitutional relations with the United States.

On the 1st of February* a convention, called without authority, but subsequently sanctioned by the legislature regularly elected, adopted an ordinance to dissolve the union between the State of Texas and the other States under the Constitution of the United States, whereby Texas was declared to be "a separate and sovereign State," and "her people and citizens" to be "absolved from all allegiance to the United States or the Government thereof."

It was ordered by a vote of the convention† and by an act of the legislature,‡ that this ordinance should be submitted to the people, for approval or disapproval, on the 23d of February, 1861.

*Mr. Justice Paterson, in Penhallow *vs.* Doane's Admrs. 3 Dall., 93.

*Paschal's Digest Laws of Texas, 78. †Paschal's Digest, 80. ‡Laws of Texas, 1859-61, p. 11.

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Without awaiting, however, the decision thus invoked, the convention, on the 4th of February, adopted a resolution, designating seven delegates to represent the State in the convention of seceding States at Montgomery, "in order," as the resolution declared, "that the wishes and interests of the people of Texas may be consulted in reference to the constitution and provisional government that may be established by said convention."

Before the passage of this resolution the convention had appointed a committee of public safety, and adopted an ordinance giving authority to that committee to take measures for obtaining possession of the property of the United States in Texas, and for removing the national troops from her limits. The members of the committee, and all officers and agents appointed or employed by it, were sworn to secrecy and to allegiance to the State.* Commissioners were at once appointed, with instructions to repair to the headquarters of General Twiggs, then representing the United States in command of the department, and to make the demands necessary for the accomplishment of the purposes of the committee. A military force was organized in support of these demands, and an arrangement was effected with the commanding general by which the United States troops were engaged to leave the State, and the forts and all the public property, not necessary to the removal of the troops, were surrendered to the commissioners.†

These transactions took place between the 2d and the 18th of February, and it was under these circumstances that the vote upon the ratification or rejection of the ordinance of secession was taken on the 23d of February. It was ratified by a majority of the voters of the State.

The convention, which had adjourned before the vote was taken, reassemoled on the 2d of March, and instructed the delegates already sent to the congress of the seceding States to apply for admission into the confederation, and to give the adhesion of Texas to its provisional constitution.

It proceeded, also, to make the changes in the State constitution which this adhesion made necessary The words "United States" were stricken out wherever they occurred, and the words "Confederate States" substituted; and the members of the legislature, and all officers of the State, were required by the new constitution to take an oath of fidelity to the constitution and laws of the new confederacy.

Before, indeed, these changes in the constitution had been completed, the officers of the State had been required to appear before the committee and take an oath of allegiance to the Confederate States.

The governor and secretary of state, refusing to comply, were summarily ejected from office.

The members of the legislature, which had also adjourned and reassembled on the 18th of March, were more compliant. They took the oath, and proceeded, on the 8th of April, to provide by law for the choice of electors of president and vice president of the Confederate States.

*Paschal's Digest, 80. †Texan Reports of the Committee, (Lib. of Con.,) p. 45.

The representatives of the State in the Congress of the United States were withdrawn, and, as soon as the seceded States became organized under a constitution, Texas sent senators and representatives to the confederate congress.

In all respects, so far as the object could be accomplished by ordinances of the convention, by acts of the legislature, and by votes of the citizens, the relations of Texas to the Union were broken up, and new relations to a new government were established for them.

The position thus assumed could only be maintained by arms, and Texas accordingly took part with the other Confederate States in the war of the rebellion which these events made inevitable. During the whole of that war there was no governor, or judge, or any other State officer in Texas who recognized the national authority. Nor was any officer of the United States permitted to exercise any authority whatever under the national Government within the limits of the State, except under the immediate protection of the national military forces.

Did Texas in consequence of these acts cease to be a State? Or, if not, did the State cease to be a member of the Union?

It is needless to discuss at length the question whether the right of a State to withdraw from the Union for any cause regarded by herself as sufficient is consistent with the Constitution of the United States.

The Union of the States never was a purely artificial and arbitrary relation. It began among the colonies, and grew out of common origin, mutual sympathies, kindred principles, similar interests, and geographical relations. It was confirmed and strengthened by the necessities of war, and received definite form, and character, and sanction, from the Articles of Confederation. By these the Union was solemnly declared to "be perpetual." And, when these articles were found to be inadequate to the exigencies of the country, the Constitution was ordained "to form a more perfect Union." It is difficult to convey the idea of indissoluble unity more clearly than by these words. What can be indissoluble, if a perpetual Union made more perfect is not?

But the perpetuity and indissolubility of the Union by no means implies the loss of distinct and individual existence, or of the right of self-government, by the States. Under the Articles of Confederation each State retained its sovereignty, freedom, and independence. and every power, jurisdiction, and right, not expressly delegated to the United States. Under the Constitution, though the powers of the States were much restricted, still all powers not delegated to the United States, nor prohibited to the States, are reserved to the States respectively, or to the people. And we have already had occasion to remark at this term, that "the people of each State compose a State, having its own government, and endowed with all the functions essential to separate and independent existence;" and that "without the States in union there could be no such political body as the United States."* Not only, therefore, can there be no loss of separate and independent autonomy to

*County of Lane *vs.* The State of Oregon.

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the States, through their union under the Constitution, but it may be not unreasonably said that the preservation of the States and the maintenance of their governments are as much within the design and care of the Constitution as the preservation of the Union and the maintenance of the national Government. The Constitution, in all its provisions, looks to an indestructible Union, composed of indestructible States.

When, therefore, Texas became one of the United States, she entered into an indissoluble relation. All the obligations of perpetual union, and all the guaranties of republican government in the Union, attached at once to the State. The act which consummated her admission into the Union was something more than a compact—it was the incorporation of a new member into the political body, and it was final. The union between Texas and the other States was as complete, as perpetual, and as indissoluble as the union between the original States. There was no place for reconsideration or revocation, except through revolution or through consent of the States.

Considered, therefore, as transactions under the Constitution, the ordinance of secession adopted by the convention and ratified by a majority of the citizens of Texas, and all the acts of her legislature intended to give effect to that ordinance, were absolutely null. They were utterly without operation in law. The obligations of the State as a member of the Union, and of every citizen of the State as a citizen of the United States, remained perfect and unimpaired. It certainly follows that the State did not cease to be a State nor her citizens to be citizens of the Union. If this were otherwise, the State must have become foreign and her citizens foreigners; the war must have ceased to be a war for the suppression of rebellion, and must have become a war for conquest and subjugation.

Our conclusion, therefore, is, that Texas continued to be a State, and a State of the Union, notwithstanding the transactions to which we have referred. And this conclusion, in our judgment, is not in conflict with any act or declaration of any department of the national Government, but entirely in accordance with the whole series of such acts and declarations since the first outbreak of the rebellion.

But in order to the exercise by a State of the right to sue in this court, there needs to be a State government competent to represent the State in its relations with the national Government, so far, at least, as the institution and prosecution of a suit is concerned.

And it is by no means a logical conclusion, from the premises which we have endeavored to establish, that the governmental relations of Texas to the Union remained unaltered. Obligations often remain unimpaired, while relations are greatly changed. The obligations of allegiance to the State and of obedience to her laws, subject to the Constitution of the United States, are binding upon all citizens, whether faithful or unfaithful to them; but the relations which subsist while these obligations are performed are essentially different from those which arise when they are disregarded and set at nought. And the same must necessarily be true of the obligations and relations of States and citizens to the Union. No one has been bold enough to contend that, while Texas was controlled by a Government hostile to the United States, and, in affiliation with a hostile confederation, waging war upon the United States, senators chosen by her legislature, or representatives elected by her citizens, were entitled to seats in Congress; or that any suit instituted in her name could be entertained in this court. All admit that, during this condition of civil war, the rights of the State as a member and of her people as citizens of the Union, were suspended. The Government and the citizens of the State refusing to recognize their constitutional obligations assumed the character of enemies and incurred the consequences of rebellion.

These new relations imposed new duties upon the United States. The first was that of suppressing the rebellion. The next was that of re-establishing the broken relations of the State with the Union. The first of these duties having been performed, the next necessarily engaged the attention of the national Government.

The authority for the performance of the first had been found in the power to suppress insurrection and carry on war; for the performance of the second, authority was derived from the obligation of the United States to guaranty to every State in the Union a republican form of government. The latter, indeed, in the case of a rebellion, which involves the government of a State, and, for the time, excludes the national authority from its limits, seems to be a necessary complement to the former.

Of this the case of Texas furnishes a striking illustration. When the war closed there was no government in the State except that which had been organized for the purpose of waging war against the United States. That government immediately disappeared. The chief functionaries left the State. Many of the subordinate officials followed their example. Legal responsibilities were annulled or greatly impaired. It was inevitable that great confusion should prevail. If order was maintained, it was where the good sense and virtue of the citizens gave support to local acting magistrates, or supplied more directly the needful restraints.

A great social change increased the difficulty of the situation. Slaves in the insurgent States, with certain local exceptions, had been declared free by the proclamation of emancipation, and whatever questions might be made as to the effect of that act under the Constitution, it was clear from the beginning that its practical operation, in connection with legislative acts of like tendency, must be complete enfranchisement. Wherever the national forces obtained control, the slaves became freemen. Support to the acts of Congress and the proclamation of the President concerning slaves was made a condition of amnesty* by President Lincoln, in December, 1863, and by President Johnson, in May, 1865.† And emancipation was confirmed, rather than ordained, in the insurgent States, by the amendment to the Constitution prohibiting slavery throughout the

*13 U. S. Stat., 737. †13 U. S. Stat., 758

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Union, which was proposed by Congress in February, 1865, and ratified before the close of the following autumn by the requisite three-fourths of the States.*

The new freemen necessarily became part of the people, and the people still constituted the State; for States, like individuals, retain their identity, though changed to some extent in their constituent elements. And it was the State, thus constituted, which was now entitled to the benefit of the constitutional guaranty.

There being, then, no government in Texas, in constitutional relations with the Union, it became the duty of the United States to provide for the restoration of such a government. But the restoration of the government which existed before the rebellion, without a new election of officers, was obviously impossible; and before any such election could be properly held, it was necessary that the old constitution should receive such amendments as would conform its provisions to the new conditions created by emancipation, and afford adequate security to the people of the State.

In the exercise of the power conferred by the guaranty clause, as in the exercise of every other constitutional power, a discretion in the choice of means is necessarily allowed. It is essential only that the means must be necessary and proper for carrying into execution the power conferred, through the restoration of the State to its constitutional relations, under a republican form of government, and that no acts be done, and no authority exerted, which is either prohibited or unsanctioned by the Constitution.

It is not important to review at length the measures which have been taken under this power by the executive and legislative departments of the national Government. It is proper, however, to observe, that almost immediately after the cessation of organized hostilities, and while the war yet smouldered in Texas, the President of the United States issued his proclamation appointing a provisional governor for the State, and providing for the assembling of a convention, with a view to the re-establishment of a republican government, under an amended constitution, and to the restoration of the State to her proper constitutional relations. A convention was accordingly assembled, the constitution amended, elections held, and a State government acknowledging its obligations to the Union established.

Whether the action then taken was in all respects warranted by the Constitution it is not now necessary to determine. The power exercised by the President was supposed doubtless to be derived from his constitutional functions as commander-in-chief; and, so long as the war continued, it cannot be denied that he might institute temporary government within insurgent districts occupied by the national forces, or take measures in any State for the restoration of State government faithful to the Union, employing, however, in such efforts, only such means and agents as were authorized by constitutional laws.

But the power to carry into effect the clause of guaranty is primarily a legislative power and resides in Congress. "Under the fourth article of the Constitution, it rests with Congress to decide what government is the established one in a State. For, as the United States guaranty to each State a republican government, Congress must necessarily decide what government is established in the State before it can determine whether it is republican or not."

This is the language of the late Chief Justice, speaking for this court, in a case from Rhode Island,* arising from the organization of opposing governments in that State. And we think that the principle sanctioned by it may be applied with even more propriety to the case of a State deprived of all rightful government by revolutionary violence, though necessarily limited to cases where the rightful government is thus subverted or in imminent danger of being overthrown by an opposing government set up by force within the State.

The action of the President must, therefore, be considered as provisional, and in that light it seems to have been regarded by Congress. It was taken after the term of the 38th Congress had expired. The 39th Congress, which assembled in December, 1865, followed by the 40th Congress, which met in March, 1867, proceeded, after long deliberation, to adopt various measures for reorganization and restoration. These measures were embodied in proposed amendments to the Constitution, and in the acts known as the reconstruction acts, which have been so far carried into effect, that a majority of the States which were engaged in the rebellion have been restored to their constitutional relations, under forms of government adjudged to be republican by Congress, through the admission of their "Senators and Representatives into the councils of the Union."

Nothing in the case before us requires the court to pronounce judgment upon the constitutionality of any particular provision of these acts.

But it is important to observe, that these acts themselves show that the governments which had been established, and had been in actual operation under executive direction, were recognized by Congress as provisional, as existing, and as capable of continuance.

By the act of March 2, 1867,† the first of the series, these governments were, indeed, pronounced illegal, and were subjected to military control, and were declared to be provisional only; and by the supplementary act of July 19, 1867, the third of the series, it was further declared, that it was the true intent and meaning of the act of March 2 that the governments then existing were not legal State governments, and, if continued, were to be continued subject to the military commanders of the respective districts and to the paramount authority of Congress. We do not inquire here into the constitutionality of this legislation so far as it relates to military authority, or to the paramount authority of Congress. It suffices to say, that the terms of the acts necessarily imply recognition of actually existing governments, and that, in

*13 U. S. Stat., 774-5.

*Luther *vs.* Borden, 7 How., 42. †U. S. Stat., 428.

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point of fact, the governments thus recognized, in some important respects, still exist.

What has thus been said generally describes with sufficient accuracy the situation of Texas. A provisional governor of the State was appointed by the President in 1865, in 1866 a governor was elected by the people under the constitution of that year, at a subsequent date a governor was appointed by the commander of the district. Each of the three exercised executive functions, and actually represented the State in the executive department.

In the case before us each has given his sanction to the prosecution of the suit, and we find no difficulty, without investigating the legal title of either to the executive office, in holding that the sanction thus given sufficiently warranted the action of the solicitor and counsel in behalf of the State. The necessary conclusion is that the suit was instituted and is prosecuted by competent authority.

The question of jurisdiction being thus disposed of, we proceed to the consideration of the merits as presented by the pleadings and the evidence.

And the first question to be answered is, whether or not the title of the State to the bonds in controversy was divested by the contract of the military board with White and Chiles?

That the bonds were the property of the State of Texas on the 11th of January, 1862, when the act prohibiting alienation without the endorsement of the governor was repealed, admits of no question and is not denied. They came into her possession and ownership through public acts of the General Government and of the State, which gave notice to all the world of the transaction consummated by them. And we think it clear that, if a State by a public act of her legislature imposes restrictions upon the alienation of her property, every person who takes a transfer of such property must be held affected by notice of them. Alienation in disregard of such restrictions can convey no title.

In this case, however, it is said that the restriction imposed by the act of 1851 was repealed by the act of 1862. And this is true if the act of 1862 can be regarded as valid. But was it valid?

The legislature of Texas, at the time of the repeal, constituted one of the departments of a State government established in hostility to the Constitution of the United States. It cannot be regarded, therefore, in the courts of the United States, as a lawful legislature, or its acts as lawful acts. And, yet it is a historical fact that the government of Texas, then in full control of the State, was its only actual government; and, certainly, if Texas had been a separate State, and not one of the United States, the new government, having displaced the regular authority, and having established itself in the customary seats of power, and in the exercise of the ordinary functions of administration, would have constituted, in the strictest sense of the words, a *de facto* government, and its acts, during the period of its existence as such, would be effectual, and in almost all respects valid. And to some extent this is true of the actual government of Texas, though unlawful and revolutionary as to the United States.

It is not necessary to attempt any exact definitions within which the acts of such a State government must be treated as valid or invalid. It may be said, perhaps with sufficient accuracy, that acts necessary to peace and good order among citizens, such, for example, as acts sanctioning and protecting marriage and the domestic relations, governing the course of descents, regulating the conveyance and transfer of property, real and personal, and providing remedies for injuries to person and estate, and other similar acts, which would be valid if emanating from a lawful government, must be regarded in general as valid when proceeding from an actual, though unlawful government; and that acts in furtherance or support of rebellion against the United States, or intended to defeat the just rights of citizens, and other acts of like nature, must, in general, be regarded as invalid and void.

What, then, tried by these general tests, was the character of the contract of the military board with White and Chiles?

That board, as we have seen, was organized, not for the defence of the State against a foreign invasion, or for its protection against domestic violence, within the meaning of these words as used in the national Constitution, but for the purpose, under the name of defence, of levying war against the United States. This purpose was undoubtedly unlawful, for the acts which it contemplated are, within the express definition of the Constitution, treasonable.

It is true that the military board was subsequently reorganized. It consisted thereafter of the governor and two other members, appointed and removable by him; and was, therefore, entirely subordinate to executive control. Its general object remained without change, but its powers were "extended to the control of all public works and supplies, and to the aid of producing within the State, by the importation of articles necessary and proper for such aid."

And it was insisted in argument on behalf of some of the defendants that the contract with White and Chiles, being for the purchase of cotton cards and medicines, was not a contract in aid of the rebellion, but for obtaining goods capable of a use entirely legitimate and innocent, and therefore that payment for those goods by the transfer of any property of the State was not unlawful. We cannot adopt this view. Without entering at this time upon the inquiry whether any contract made by such a board can be sustained, we are obliged to say that the enlarged powers of the board appear to us to have been conferred in furtherance of its main purpose of war against the United States, and that the contract under consideration, even if made in the execution of these enlarged powers, was still a contract in aid of the rebellion, and therefore void. And we cannot shut our eyes to the evidence which proves that the act of repeal was intended to aid rebellion by facilitating the transfer of these bonds. It was supposed, doubtless, that negotiation of them would be less difficult if they bore upon their face no direct evidence of having come from the possession of any insurgent State government.

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We can give no effect, therefore, to this repealing act.

It follows that the title of the State was not divested by the act of the insurgent government in entering into this contract.

But it was insisted further, in behalf of those defendants who claim certain of these bonds by purchase, or as collateral security, that however unlawful may have been the means by which White and Chiles obtained possession of the bonds, they are innocent holders without notice, and entitled to protection as such under the rules which apply to securities which pass by delivery. These rules were fully discussed in Murray *vs.* Lardner.* We held in that case that the purchase of coupon bonds, before due, without notice and in good faith, is unaffected by want of title in the seller, and that the burden of proof in respect to notice and want of good faith is on the claimant of the bonds as against the purchaser. We are entirely satisfied with this doctrine.

Does the State, then, show affirmatively notice to these defendants of want of title to the bonds in White and Chiles?

It would be difficult to give a negative answer to this question, if there were no other proof than the legislative acts of Texas. But there is other evidence which might fairly be held to be sufficient proof of notice, if the rule to which we have adverted could be properly applied to this case.

But these rules have never been applied to matured obligations. Purchasers of notes or bonds past due take nothing but the actual right and title of the vendors.†

The bonds in question were dated January 1, 1851, and were redeemable after the 31st of December, 1864. In strictness, it is true they were not payable on the day when they became redeemable; but the known usage of the United States to pay all bonds as soon as the right of payment accrues, except where a distinction between redeemability and payability is made by law and shown on the face of the bonds, requires the application of the rule respecting over-due obligations to bonds of the United States which have become redeemable, and in respect to which no such distinction has been made.

Now, all the bonds in controversy had become redeemable before the date of the contract with White and Chiles; and all bonds of the same issue which have the endorsement of a governor of Texas made before the date of the secession ordinance—and there were no others endorsed by any governor—had been paid in coin on presentation at the Treasury Department; while, on the contrary, applications for the paymont of bonds, without the required endorsement, and of coupons detached from such bonds, made to that department, had been denied.

As a necessary consequence, the negotiation of these bonds became difficult. They sold much below the rates they would have commanded had the title to them been unquestioned. They were bought in fact, and under the circumstances could only have been bought, upon speculation. The purchasers took the risk of a bad title, hoping, doubtless, that, through the action of the national Government or of the government of Texas, it might be converted into a good one. And it is true that the first provisional governor of Texas encouraged the expectation that these bonds would be ultimately paid to the holders. But he was not authorized to make any engagement in behalf of the State, and in fact made none. It is true, also, that the Treasury Department, influenced perhaps by these representations, departed to some extent from its original rule, and paid bonds held by some of the defendants without the required endorsement. But it is clear that this change in the action of the department could not affect the rights of Texas as a State of the Union, having a government acknowledging her obligations to the national Constitution.

It is impossible upon this evidence to hold the defendants protected by absence of notice of the want of title in White and Chiles. As these persons acquired no right to payment of these bonds as against the State, purchasers could acquire none through them.

On the whole case, therefore, our conclusion is, that the State of Texas is entitled to the relief sought by her bill, and a decree must be made accordingly.

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Dissenting Opinion.

Mr. Justice Grier dissenting, delivered the following opinion:

I regret that I am compelled to dissent from the opinion of the majority of the court on all the points raised and decided in this case.

The first question in order is the jurisdiction of the court to entertain this bill in behalf of the State of Texas.

The original jurisdiction of this court can be invoked only by one of the United States. The Territories have no such right conferred on them by the Constitution, nor have the Indian tribes who are under the protection of the military authorities of the Government.

Is Texas one of these United States? Or was she such at the time this bill was filed, or since?

This is to be decided as *a political fact*, not as a *legal fiction*. This court is bound to know and notice the public history of the nation.

If I regard the truth of history for the last eight years, I cannot discover the State of Texas as one of these United States. I do not think it necessary to notice any of the very astute arguments which have been advanced by the learned counsel in this case. to find the definition of a State, when we have the subject treated in a clear and common-sense manner, and without any astute judicial abstractions, by Chief Justice Marshall, in the case of Hepburn & Dundass *vs.* Elzey, 2 Cranch, 452. As the case is short and clear, I hope to be excused for a full report of the case as stated and decided by the court. "The question," says Marshall, C J., "is whether the plaintiffs, as residents of the District of Columbia, can maintain an action in the circuit court of the United States for the district of Virginia. This depends on the act of Congress describing the jurisdiction of that court. The act gives jurisdiction to the circuit courts in

* 2 Wall., 118. † Brown *vs.* Davis, 37 R., 80; Goodman *vs.* Symonds, 20 How., 366.

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cases between a citizen of the State in which the suit is brought, and a citizen of another State. To support the jurisdiction in this case, it must appear that Columbia is a State. On the part of the plaintiff it has been urged that Columbia is a distinct political society, and is, therefore, a 'State' according to the definition of writers on general law. This is true; but as the act of Congress obviously uses the word 'State' in reference to that term as used in the Constitution, it becomes necessary to inquire whether Columbia is a State in the sense of that instrument. The result of that examination is a conviction that the members of the American confederacy *only* are the States contemplated in the Constitution. The House of Representatives is to be composed of members chosen by the people of the several States, and each State shall have at least one representative. 'The Senate of the United States shall be composed of two senators from each State.' Each State shall appoint for the election of the executive a number of electors equal to its whole number of senators and representatives. These clauses show that the word 'State' is used in the Constitution as designating a member of the Union, and excludes from the term the signification attached to it by writers on the law of nations."

Now we have here a clear and well defined test by which we may arrive at a conclusion with regard to the questions of fact now to be decided.

Is Texas a State, now represented by members chosen by the people of that State and received on the floor of Congress? Has she two senators to represent her as a State in the Senate of the United States? Has her voice been heard in the late election of President? Is she not now held and governed as a conquered province by military force? The act of Congress of March 28, 1867, declares Texas to be a "rebel State," and provides for its government until a legal and republican State government could be legally established. It constituted Louisiana and Texas the fifth military district, and made it subject, not to the civil authority, but to the "military authorities of the United States."

It is true that no organized rebellion now exists there, and the courts of the United States now exercise jurisdiction over the people of that province. But this is no test of the State's being in the Union: Dacotah is no State, and yet the courts of the United States administer justice there as they do in Texas. The Indian tribes, who are governed by military force, cannot claim to be States of the Union. Wherein does the condition of Texas differ from theirs?

Now, by assuming or admitting *as a fact* the present *status* of Texas as a State not in the Union *politically*, I beg leave to protest against any charge of inconsistency as to judicial opinions heretofore expressed as a member of this court or silently assented to. I do not consider myself bound to express any opinion judicially as to the constitutional right of Texas to exercise the rights and privileges of a State of this Union, or the power of Congress to govern her as a conquered province, to subject her to military domination and keep her in pupilage. I can only submit to *the fact* as decided by the political position of the government; and I am not disposed to join in any essay of judicial subtlety to prove Texas to be a State of the Union, when Congress have decided that she is not. It is a question of fact, I repeat, and of fact only. *Politically*, Texas is not *a State in this Union*. Whether rightfully out of it or not is a question not before the court, and I am not called on to confute a fact with syllogisms.

But conceding now the fact to be as judicially assumed by my brethren, the next question is whether she has a right to repudiate her contracts? Before proceeding to answer this question, we must notice a fact in this case that was forgotten in the argument. I mean that the United States are no party to this suit, and refusing to pay the bonds because the money paid would be used to advance the interests of the rebellion. It is a matter of utter insignificance to the Government of the United States to whom she makes the payment of these bonds. They are payable to the bearer. The Government is not bound to inquire into the *bona fides* of the holder, nor whether the State of Texas has parted with the bonds wisely or foolishly. And, although by the reconstruction acts she is required to repudiate all debts contracted for the purposes of the rebellion, this does not annul all acts of the State government during the rebellion or contracts for other purposes, nor authorize the State to repudiate them.

Now, whether we assume the State of Texas to be judicially in the Union (though actually out of it) or not, it will not alter the case. The contest is now between the State of Texas and her own citizens. She seeks to annul a contract with the respondents based on the allegation that there was no authority in Texas competent to enter into an agreement during the rebellion. Having relied upon one judicial fiction, namely, that she *is* a state in the Union, she now relies upon a second one, which she wishes this court to adopt, that she was not a State at all during the five years that she was in rebellion. She now sets up the plea of *insanity*, and asks the court to treat all her acts made during the disease as void.

We have had some very astute logic to prove that judicially she was not a State at all, although governed by her own legislature and executive as "a distinct political body."

The ordinance of secession was adopted by the convention on the 18th February, 1861, submitted to a vote of the people, and ratified by an overwhelming majority.

I admit that this was a very ill-advised measure. Still, it was the sovereign act of a sovereign State, and the verdict on the trial of this question "by battle," (Prize Cases, 2 Black, 673,) as to her right to secede, has been against her. But that verdict did not settle any question not involved in the case. It did not settle the question of her right to plead insanity and set aside all her contracts, made during the pending of the trial, with her own citizens, for food, clothing, or medicines. The same "organized political body," exercising the sovereign power of the State, which required the endorsement of these bonds by the governor, also passed the laws authorizing the disposal of them without such endorsement. She

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cannot, like the chameleon, assume the color of the object to which she adheres, and ask this court to involve itself in the contradictory positions that she is a State in the Union and was never out of it, and yet not a State at all for four years, during which she acted and claims to be "an organized political body," exercising all the powers and functions of an independent sovereign State. Whether a State *de facto* or *de jure*, she is estopped from denying her identity in disputes with her own citizens. If they have not fulfilled their contract, she can have her legal remedy for the breach of it in her own courts.

But the case of Hardenberg differs from that of the other defendants. He purchased the bonds in open market, *bona fide*, and for a full consideration. Now, it is to be observed that these bonds are payable to bearer, and that this court is appealed to as a court of equity. The argument to justify a decree in favor of the Commonwealth of Texas as against Hardenberg is simply this: these bonds, though payable to bearer, are redeemable fourteen years from date. The Government has exercised her privilege of paying the interest for a term without redeeming the principal, which gives an additional value to the bonds. *Ergo*, the bonds are dishonored. *Ergo*, the former owner has a right to resume the possession of them, and reclaim them from a *bona fide* owner by a decree of a court of equity.

This is the legal argument, when put in the form of a logical sorites, by which Texas invokes our aid to assist her in the perpetration of this great wrong.

A court of chancery is said to be a court of conscience; and however astute may be the argument introduced to defend this decree, I can only say that neither my reason nor my conscience can give assent to it. Of course I am justly convicted by my brethren of an erroneous use of both; but I hope I may say, without offence, that I am not convinced of it.

Mr. Justice Swayne delivered the following opinion:

I concur with my brother Grier as to the incapacity of the State of Texas, in her present condition, to maintain an original suit in this court. The question, in my judgment, is one in relation to which this court is bound by the action of the legislative department of the Government.

Upon the merits of the case I agree with the majority of my brethren.

I am authorized to say that my brother Miller unites with me in these views.

The decree in this case was, on motion of William M. Evarts and J. M. Carlisle, suspended in so far as it affects the rights of any holders or purchasers of the coupon bonds who obtained them in open market, and a re-argument of the case was ordered for October next.

The McCardle Case.

No. 223, DECEMBER TERM, 1868.

Ex parte William H. McCardle, appellant. } Appeal from the circuit court of the United States for the southern district of Mississippi.

Mr. Chief Justice Chase delivered the opinion of the court.

This cause came here by appeal from the circuit court for the southern district of Mississippi.

A petition for the writ of *habeas corpus* was preferred in that court by the appellant, alleging unlawful restraint by military force.

The writ was issued, and a return was made by the military commander, admitting the restraint, but denying that it was unlawful.

It appeared that the petitioner was not in the military service of the United States, but was held in custody by military authority for trial before a military commission upon charges founded upon the publication of articles alleged to be incendiary and libelous, in a newspaper of which he was editor.

Upon the hearing the petitioner was remanded to the military custody; but upon his prayer an appeal was allowed him to this court, and, upon filing the usual appeal bond for costs, he was admitted to bail upon recognizance, with sureties, conditioned for his future appearance in the circuit court, to abide by and perform the final judgment of this court.

A motion to dismiss this appeal was made at the last term, and, after argument, was denied. A full statement of the case may be found in the report of this decision;* and it is unnecessary to repeat it here.

Subsequently the case was argued very thoroughly and ably upon the merits, and was taken under advisement. While it was thus held, and before conference in regard to the decision proper to be made, an act was passed by Congress,† returned with objections by the President, and re-passed by the constitutional majority, which it is insisted takes from this court juridiction of the appeal.

The second section of this act was as follows:

"*And be it further enacted*, That so much of the act approved February 5, 1867, entitled an act to amend an act to establish the judicial courts of the United States, approved September 24, 1789, as authorized an appeal from the judgment of the circuit court to the Supreme Court of the United States, or the exercise of any such jurisdiction by said Supreme Court on appeals which have been or may hereafter be taken, be, and the same is hereby, repealed."

The attention of the court was directed to this statute at the last term, but counsel having expressed a desire to be heard in argument upon its effect, and the Chief Justice being detained from his place here by his duties in the court of impeachment, the cause was continued under advisement.

At this term we have heard argument upon the effect of the repealing act, and will now dispose of the case.

The first question necessarily is that of jurisdiction; for, if the act of March, 1868, takes away the jurisdiction defined by the act of February, 1867, it is useless, if not improper, to enter into any discussion of other questions.

It is quite true, as was argued by the counsel for the petitioner, that the appellate jurisdiction of this court is not derived from acts of Congress. It is, strictly speaking, conferred by the Consti-

Ex-parte McCardle, 6 Wall., 318. †Act March 27, 1868, 15 U. S. Stat. 44.

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tution. But it is conferred "with such exceptions and under such regulations as Congress shall make."

It is unnecessary to consider whether, if Congress had made no exceptions and no regulations, this court might not have exercised general appellate jurisdiction under rules prescribed by itself. For among the earliest acts of the 1st Congress, at its 1st session, was the act of September 24, 1789, to establish the judicial courts of the United States. That act provided for the organization of this court, and prescribed regulations for the exercise of its jurisdiction.

The source of that jurisdiction, and the limitations of it by the Constitution and by statute, have been on several occasions subjects of consideration here. In the case of Durousseau *vs.* The United States,* particularly, the whole matter was carefully examined, and the court held that, while "the appellate powers of this court are not given by the judicial act, but are given by the Constitution," they are nevertheless "limited and regulated by that act, and by such other acts as have been passed on the subject." The court said further, that the judicial act was an exercise of the power given by the Constitution to Congress "of making exceptions to the appellate jurisdiction of the Supreme Court." "They have described affirmatively," said the court, "its jurisdiction, and this affirmative description has been understood to imply a negation of the exercise of such appellate power as is not comprehended within it."

The principle that the affirmation of appellate jurisdiction implies the negation of all such jurisdiction not affirmed having been thus established, it was an almost necessary consequence that acts of Congress, providing for the exercise of jurisdiction, should come to be spoken of as acts granting jurisdiction, and not as acts making exceptions to the constitutional grant of it.

The exception to appellate jurisdiction in the case before us, however, is not an inference from the affirmation of other appellate jurisdiction. It is made in terms. The provision of the act of 1867, affirming the appellate jurisdiction of this court in cases of *habeas corpus*, is expressly repealed. It is hardly possible to imagine a plainer instance of positive exception.

We are not at liberty to inquire into the motives of the legislature. We can only examine into its power under the Constitution; and the power to make exceptions to the appellate jurisdiction of this court is given by express words.

What, then, is the effect of the repealing act upon the case before us? We cannot doubt as to this. Without jurisdiction the court cannot proceed at all in any cause. Jurisdiction is power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the cause.

And this is not less clear upon authority than upon principle.

Several cases were cited by the counsel for the petitioner in support of the position that jurisdiction of this case is not affected by the repealing act. But none of them, in our judgment, afford any support to it. They are all cases of the exercise of judicial power by the legislature, or of legislative interference with courts in the exercising of continuing jurisdiction.*

On the other hand, the general rule, supported by the best elementary writers,† is, that "when an act of the legislature is repealed, it must be considered, except as to transactions past and closed, as if it never existed." And the effect of repealing acts upon suits under acts repealed has been determined by the adjudications of this court. The subject was fully considered in Norris *vs.* Crocker,‡ and more recently in Insurance Company *vs.* Ritchie.§ In both of these cases it was held that no judgment could be rendered in a suit after the repeal of the act under which it was brought and prosecuted.

It is quite clear, therefore, that this court cannot proceed to pronounce judgment is this case, for it has no longer jurisdiction of the appeal; and judicial duty is not less fitly performed by declining ungranted jurisdiction than in exercising firmly that which the Constitution and the laws confer.

Counsel seem to have supposed, if effect be given to the repealing act in question, that the whole appellate power of the court in cases in *habeas corpus* is denied. But this is an error. The act of 1868 does not except from that jurisdiction any cases but appeals from circuit courts under the act of 1867. It does affect the jurisdiction which was previously exercised.‖

The appeal of the petitioner in this case must be dismissed for want of jurisdiction.

Opinions in the Cæsar Griffin Case—Virginia.

OPINION OF CHIEF JUSTICE CHASE, MAY 10, 1869.

Circuit court of the United States for the district of Virginia, in the matter of Cæsar Griffin—Petition for habeas corpus.

This is an appeal from an order of discharge from imprisonment made by the district judge, acting as a judge of the circuit court, upon a writ of *habeas corpus*, allowed upon the petition of Cæsar Griffin.

The petition alleged unlawful restraint of the petitioner, in violation of the Constitution of the United States, by the sheriff of Rockbridge county, Virginia, in virtue of a pretended judgment rendered in the circuit court of that county by Hugh W. Sheffey, present and presiding therein as judge, though disabled from holding any office whatever by the XIVth amendment of the Constitution of the United States.

Upon this petition a writ of *habeas corpus* was allowed and served, and the body of the petitioner, with a return showing the cause of detention, was produced by the sheriff, in conformity with its command.

The general facts of the case, as shown to the district judge, may be briefly stated as follows:

The circuit court of Rockbridge county is a court of record of the State of Virginia, having civil and criminal jurisdiction. In this court, the petitioner, Cæsar Griffin, indicted in the

*6 Cranch, 312; Wiscart *vs.* Dauchy, 3 Dall., 321.

*De Chastellux *vs.* Fairchild, 15 Pa., 18; The State *vs.* Fleming, 7 Humph., 152; Lewis *vs.* Webb, 3 Greene, 326; Lanier *vs.* Gallatus, 13 La. An., 175.

†Dwarris on Statutes, 538. ‡13 How., 429. §5 Wall., 541.

‖ *Ex parte* McCardle, 6 Wall,, 324.

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county court for shooting, with intent to kill, was regularly tried in pursuance of his own election; and, having been convicted, was sentenced according to the finding of the jury, to imprisonment for two years, and was in the custody of the sheriff to be conveyed to the penitentiary, in pursuance of this sentence.

Griffin is a colored man; but there was no allegation that the trial was not fairly conducted, or that any discrimination was made against him, either in indictment, trial, or sentence, on account of color.

It was not claimed that the grand jury by which he was indicted, or the petit jury by which he was tried, was not in all respects lawful and competent. Nor was it alleged that Hugh W. Sheffey, the judge who presided at the trial and pronounced the sentence, did not conduct the trial with fairness and uprightness.

One of the counsel for the petitioner, indeed, upon the hearing in this court, pronounced an eulogium upon his character both as a man and as a magistrate, to deserve which might well be the honorable aspiration of any judge.

But it was alleged and was admitted that Judge Sheffey, in December, 1849, as a member of the Virginia house of delegates, took an oath to support the Constitution of the United States, and also that he was a member of the legislature of Virginia during the late rebellion in 1862, and as such voted for measures to sustain the so-called Confederate States in their war against the United States; and it was claimed in behalf of the petitioner that he thereby became, and was at the time of the trial of the petitioner, disqualified to hold any office, civil or military, under the United States, or under any State; and it was specially insisted that the petitioner was entitled to his discharge upon the ground of the incapacity of Sheffey under the XIVth amendment to act as judge and pass sentence of imprisonment.

Upon this showing and argument it was held by the district judge that the sentence of Cæsar Griffin was absolutely null; that his imprisonment was in violation of the Constitution of the United States, and an order for his discharge from custody was made accordingly.

The general question to be determined on the appeal from this order is whether or not the sentence of the circuit court of Rockbridge county must be regarded as a nullity, because of the disability to hold any office under the State of Virginia imposed by the XIVth amendment on the person who in fact presided as judge in that court.

It may be properly borne in mind that the disqualification did not exist at the time that Sheffey became judge.

When the functionaries of the State government existing in Virginia at the commencement of the late civil war took part, together with a majority of the citizens of the State, in rebellion against the Government of the United States, they ceased to constitute a State government for the State of Virginia which could be recognized as such by the national Government. Their example of hostility to the Union, however, was not followed throughout the State. In many counties the local authorities and majorities of the people adhered to the national Government; and representatives from those counties soon after assembled in convention at Wheeling, and organized a government for the State. This government was recognized as the lawful government of Virginia by the executive and legislative departments of the national Government, and this recognition was conclusive upon the judicial department.

The government of the State thus recognized was, in contemplation of law, the government of the whole State of Virginia, though excluded, as the Government of the United States was itself excluded, from the greater portion of the territory of the State. It was the legislature of the reorganized State which gave the consent of Virginia to the formation of the State of West Virginia. To the formation of that State the consent of its own legislature and of the legislature of the State of Virginia and of Congress was indispensable. If either had been wanting, no State within the limits of the old could have been constitutionally formed; and it is clear, that if the government instituted at Wheeling was not the government of the whole State of Virginia, no new State has ever been constitutionally formed within her ancient boundaries.

It cannot admit of question, then, that the government which consented to the formation of the State of West Virginia, remained, in all national relations, the government of Virginia, although that event reduced to very narrow limits the territory acknowledging its jurisdiction, and not controlled by insurgent force. Indeed, it is well known, historically, that the State and the government of Virginia, thus organized, was recognized by the national Government. Senators and Representatives from the State occupied seats in Congress, and when the insurgent force which held possession of the principal part of the territory was overcome, and the government recognized by the United States was transferred from Alexandria to Richmond, it became in fact, what it was before in law, the government of the whole State. As such it was entitled, under the Constitution, to the same recognition and respect, in national relations, as the government of any other State.

It was under this government that Hugh W. Sheffey was, on the 22d February, 1866, duly appointed judge of the circuit court of Rockbridge county, and he was in the regular exercise of his functions as such when Griffin was tried and sentenced.

More than two years had elapsed, after the date of his appointment, when the ratification of the XIVth amendment by the requisite number of States was officially promulgated by the Secretary of State, on the 28th of July, 1868.

That amendment, in its 3d section, ordains that "no person shall be a senator or representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion

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against the same, or given aid or comfort to the enemies thereof."

And it is admitted that the office held by Judge Sheffey, at the time of the trial of Griffin, was an office under the State of Virginia, and that he was one of the persons to whom the prohibition to hold office pronounced by the amendment applied.

The question to be considered, therefore, is whether, upon a sound construction of the amendment, it must be regarded as operating directly, without any intermediate proceeding whatever, upon all persons within the category of prohibition, and as depriving them at once and absolutely of all official authority and power.

One of the counsel for the petitioner suggested that the amendment must be construed with reference to the act of 1867, which extends the writ of *habeas corpus* to a large class of cases in which the previous legislation did not allow it to be issued. And it is proper to say a few words of this suggestion here

The judiciary act of 1789 expressly denied the benefit of the writ of *habeas corpus* to prisoners not confined under or by color of the authority of the United States. Under that act, no person confined under State authority could have the benefit of the writ. Afterwards, in 1833 and 1842, the writ was extended to certain cases, specially described, of imprisonment under State process; and in 1867, by the act to which the counsel referred, the writ was still further extended "to all cases where any person may be restrained of liberty in violation of the Constitution, or of any treaty or law of the United States."

And the learned counsel was doubtless correct in maintaining that without the act of 1867 there would be no remedy for *habeas corpus* in the case of the petitioner, nor, indeed, in any case of imprisonment in violation of the Constitution of the United States, except in the possible case of an imprisonment not only within the provisions of this act, but also within the provisions of some one of the previous acts of 1789, 1833, and 1842.

But if, in saying that the amendment must be construed with reference to the act, the counsel meant to affirm that the existence of the act throws any light whatever upon the construction of the amendment, the court is unable to perceive the force of his observation.

It is not pretended that imprisonment for shooting with intent to kill is unconstitutional, and it will hardly be affirmed that the act of 1867 throws any light whatever upon the question, whether such imprisonment in any particular case is unconstitutional. The case of unconstitutional imprisonment must be established by appropriate evidence. It cannot be inferred from the existence of a remedy for such a case. And, surely, no construction, otherwise unwarranted, can be put upon the amendment more than upon any other provision of the Constitution, to make a case of violation out of acts which, otherwise, must be regarded as not only constitutional, but right.

We come then to the question of construction. What was the intention of the people of the United States in adopting the XIVth amendment? What is the true scope and purpose of the prohibition to hold office contained in the third section?

The proposition maintained in behalf of the petitioner is, that this prohibition instantly, on the day of its promulgation, vacated all offices held by persons within the category of prohibition, and made all official acts performed by them since that day null and void.

One of the counsel sought to vindicate this construction of the amendment upon the ground that the definitions of the verb "to hold," given by Webster, in his dictionary, are "to stop; to confine; to restrain from escape; to keep fast; to retain;" of which definitions the author says that "to hold rarely or never signifies the first act of seizing or falling on, but the act of retaining a thing when seized on or confined."

The other counsel seemed to be embarrassed by the difficulties of this literal construction, and sought to establish a distinction between sentences in criminal cases and judgments and decrees in civil cases. He admitted, indeed, that the latter might be valid when made by a court held by a judge within the prohibitive category of the amendment, but insisted that the sentences of the same court in criminal cases must be treated as nullities. The ground of the distinction, if we correctly apprehend the argument, was found in the circumstance that the act of 1867 provided a summary redress in the latter class of cases; while in the former no summary remedy could be had, and great inconvenience would arise from regarding decrees and judgments as utterly null and without effect.

But this ground of distinction seems to the court unsubstantial. It rests upon the fallacy already commented on. The amendment makes no such distinction as is supposed. It does not deal with cases, but with persons. The prohibition is general. No person in the prohibitive category can hold office. It applies to all persons and to all offices, under the United States or any State. If upon a true construction it operates as a removal of a judge, and avoids all sentences in criminal cases pronounced by him after the promulgation of the amendment it must be held to have the effect of removing all judges and all officers, and annulling all their official acts after that date

The literal construction, therefore, is the only one upon which the order of the learned district judge, discharging the prisoner, can be sustained, and was, indeed, as appears from his certificate, the construction upon which the order was made. He says expressly, "the right of the petitioner to his discharge appeared to me to rest solely on the incapacity of the said Hugh W Sheffey to act, (that is, as judge,) and so to sentence the prisoner, under the XIVth amendment."

Was this a correct construction?

In the examination of questions of this sort, great attention is properly paid to the argument from inconvenience. This argument, it is true, cannot prevail over plain words or clear reason. But, on the other hand, a construction which must necessarily occasion great public and private mischief must never be preferred to a construction which will occasion neither, or neither in so great degree, unless the terms of

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the instrument absolutely require such preference.

Let it then be considered what consequences would spring from the literal interpretation contended for in behalf of the petitioner.

The amendment applies to all the States of the Union, to all offices under the United States or under any State, and to all persons in the category of prohibition, and for all time, present and future. The offences for which exclusion from office is denounced are not merely engaging in insurrection or rebellion against the United States, but the giving of aid or comfort to their enemies. They are offences not only of civil, but of foreign war.

Now, let it be supposed that some of the persons described in the third section, during the war with Mexico, gave aid and comfort to the enemies of their country, and nevertheless held some office on the 28th of July, 1868, or subsequently

Is it a reasonable construction of the amendment which will make it annul every official act of such an officer?

But let another view be taken. It is well known that many persons engaged in the late rebellion have emigrated to States which adhered to the national Government, and it is not to be doubted that not a few among them, as members of Congress, or officers of the United States, or as members of State legislatures, or as executive or judicial officers of a State, had before the war taken an oath to support the Constitution of the United States. In their new homes, capacity, integrity, fitness, and acceptability, may very possibly have been more looked to than antecedents. Probably some of these persons have been elected to office in the States which have received them. It is not unlikely that some of them held office on the 28th July, 1868. Must all their official acts be held to be null under the inexorable exigencies of the amendment?

But the principal intent of the amendment was, doubtless, to provide for the exclusion from office in the lately insurgent States of all persons within the prohibitive description.

Now, it is well known that before the amendment was proposed by Congress, governments acknowledging the constitutional supremacy of the national Government had been organized in all these States. In some these governments had been organized through the direct action of the people, encouraged and supported by the President, as in Tennessee, Louisiana and Arkansas, and in some through similar action in pursuance of Executive proclamation, as in North Carolina, Alabama, and several other States. In Virginia such a State government had been organized as has been already stated, soon after the commencement of the war; and this government only had been fully recognized by Congress, as well as by the President.

This government, indeed, and all the others, except that of Tennessee, were declared by Congress to be provisional only.

But in all these States all offices had been filled, before the ratification of the amendment, by citizens who at the time of the ratification were actively engaged in the performance of their several duties. Very many, if not a majority of these officers, had, in one or another of the capacities described in the third section, taken an oath to support the Constitution and had afterwards engaged in the late rebellion; and most, if not all, of them continued in the discharge of their functions after the promulgation of the amendment, not supposing that by its operation their offices could be vacated without some action of Congress.

If the construction now contended for be given to the prohibitive section, the effect must be to annul all official acts performed by these officers. No sentence, no judgment, no decree, no acknowledgment of a deed, no record of a deed, no sheriff's or commissioner's sale—in short, no official act is of the least validity. It is impossible to measure the evils which such a construction would add to the calamities which have already fallen upon the people of these States.

The argument from inconveniences, great as these, against the construction contended for, is certainly one of no light weight.

But there is another principle which, in determining the construction of this amendment, is entitled to equal consideration with that which has just been stated and illustrated. It may be stated thus: Of two constructions, either of which is warranted by the words of an amendment of a public act, that is to be preferred which best harmonizes the amendment with the general tenor and spirit of the act amended.

This principle forbids a construction of the amendment not clearly required by its terms, which will bring it into conflict or disaccord with the other provisions of the Constitution.

And here it becomes proper to examine somewhat more particularly the character of the third section of the amendment.

The amendment itself was the first of the series of measures proposed or adopted by Congress with a view to the reorganization of State governments acknowledging the constitutional supremacy of the national Government in those States which had attempted to break up their constitutional relations with the Union, and to establish an independent confederacy.

All citizens who had, during its earlier stages, engaged in or aided the war against the United States, which resulted inevitably from this attempt, had incurred the penalties of treason under the statute of 1790.

But by the act of July 17, 1862, while the civil war was flagrant, the death penalty for treason committed by engaging in rebellion was practically abolished. Afterwards, in December, 1863, full amnesty, on conditions which now certainly seem to be moderate, was offered by President Lincoln, in accordance with the same act of Congress; and, after organized resistance to the United States had ceased, amnesty was again offered, in accordance with the same act, by President Johnson, in May, 1865. In both these offers of amnesty extensive exceptions were made.

In June, 1866, little more than a year later, the XIVth amendment was proposed, and was ratified in July, 1868. The only punitive section contained in it is the third, now under consideration. It is not improbable that one of the objects of this section was to provide for the security of the nation and of individuals by the

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exclusion of a class of citizens from office; but it can hardly be doubted that its main purpose was to inflict upon the leading and most influential characters who had been engaged in the rebellion, exclusion from office as a punishment for the offence.

It is true that, in the judgment of some enlightened jurists, its legal effect was to remit all other punishment, for it led to the general amnesty of December 25, of the same year, and to the order discontinuing all prosecutions for crime and proceedings for confiscation originating in the rebellion. Such certainly was its practical effect. But this very effect shows distinctly its punitive character.

Now, it is undoubted that those provisions of the Constitution which deny to the legislature power to deprive any person of life, liberty, or property without due process of law, or to pass a bill of attainder, or an *ex post facto* law, are inconsistent, in their spirit and general purpose, with any provision which at once, without trial, deprives a whole class of persons of offices held by them for cause, however grave. It is true that no limit can be imposed on the people when exercising their sovereign power in amending their own constitution of government. But it is a necessary presumption that the people, in the exercise of that power, seek to confirm and improve, rather than to weaken and impair, the general spirit of the Constitution.

If there were no other grounds than these for seeking another interpretation of the amendment than that which we are asked to put upon it, we should feel ourselves bound to hold them sufficient.

But there is another and sufficient ground, and it is this, that the construction demanded in behalf of the petitioner is nugatory except for mischief.

In the language of one of the counsel, "the object had in view by us is not to unseat Hugh W Sheffey, and no judgment of the court can effect that."

Now, the object of the amendment is to unseat every officer, whether judicial or executive, who holds civil or military office in contravention of the terms of the amendment. Surely, a construction which fails to accomplish the main purpose of the amendment and yet necessarily works the mischiefs and inconveniences which have been described, and is repugnant to the first principles of justice and right embodied in other provisions of the Constitution, is not to be favored if any other reasonable construction can be found.

Is there, then, any other reasonable construction? In the judgment of the court there is another, not only reasonable, but very clearly warranted by the terms of the amendment, and recognized by the legislation of Congress.

The object of the amendment is to exclude from certain offices a certain class of persons. Now, it is obviously impossible to do this by a simple declaration, whether in the Constitution or in an act of Congress, that all persons included within a particular description shall not hold office. For, in the very nature of things, it must be ascertained what particular individuals are embraced by the definition before any sentence of exclusion can be made to operate. To accomplish this ascertainment and insure effective results, proceedings, evidence, decisions, and enforcement of decisions, more or less formal, are indispensable; and these can only be provided for by Congress.

Now, the necessity of this is recognized by the amendment itself, in its fifth and final section, which declares that "Congress shall have power to enforce, by appropriate legislation, the provisions of this article."

There are, indeed, other sections than the third, to the enforcement of which legislation is necessary; but there is no one which more clearly requires legislation in order to give effect to it. The fifth section qualifies the third to the same extent as it would if the whole amendment consisted of these two sections.

And the final clause of the third section itself is significant: it gives to Congress absolute control of the whole operation of the amendment. These are its words: "But Congress may, by a vote of two thirds of each House, remove such disability" Taking the third section then in its completeness, with this final clause, it seems to put beyond reasonable question the conclusion that the intention of the people of the United States in adopting the XIVth amendment was to create a disability, to be removed in proper cases by a two thirds vote, and to be made operative in other cases by the legislation of Congress in its ordinary course. The construction gives certain effect to the undoubted intent of the amendment to insure the exclusion from office of the designated class of persons, if not relieved from their disabilities, and avoids the manifold evils which must attend the construction insisted upon by the counsel for the petitioner.

It results from this examination that persons in office by lawful appointment, or elected before the promulgation of the XIVth amendment, are not removed therefrom by the direct and immediate effect of the prohibition to hold office contained in the third section; but that legislation by Congress is necessary to give effect to the prohibition, by providing for such removal. And it results further, that the exercise of their several functions by these officers, until removed in pursuance of such legislation, is not unlawful.

The views which have been just stated receive strong confirmation from the action of Congress and of the executive department of the Government. The decision of the district judge, now under revision, was made in December, 1868, and two months afterwards, in February, 1869, Congress adopted a joint resolution, entitled "A resolution respecting the provisional governments of Virginia and Texas." In this resolution it was provided, that persons "holding office in the provisional governments of Virginia and Texas," but unable to take and subscribe the test-oath prescribed by the act of July 2, 1862, except those relieved from disability, "be removed therefrom;" but a provision was added, suspending the operation of the resolution for thirty days from its passage. The joint resolution was passed and received by the President on the 6th of February, and,

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not having been returned in ten days, became a law without his approval.

It cannot be doubted that this joint resolution recognized persons unable to take the oath required, to which class belonged all persons within the description of the third section of the XIVth amendment, as holding office in Virginia at the date of its passage, and provided for their removal from office.

It is not clear whether it was the intent of Congress that this removal should be effected in Virginia by the force of the joint resolution itself, or by the commander of the first military district. It was understood by the executive or military authorities as directing the removal of the persons described by military order. The resolution was published by command of the general of the army, for the information of all concerned, on the 22d of March, 1869. It had been previously published by direction of the commander of the first military district, accompanied by an order, to take effect on the 18th of March, 1869, removing the persons described from office. The date at which this order was to take effect was afterwards changed to the 21st of March.

It is plain enough from this statement that persons holding office in Virginia, and within the prohibition of the XIVth amendment, were not regarded by Congress, or by the military authority, in March, 1869, as having been already removed from office.

It is unnecessary to discuss here the question whether the government of Virginia, which seems to have been not provisional, but permanent, when transferred from Alexandria to Richmond, became provisional under the subsequent legislation of Congress, or to express any opinion concerning the validity of the joint resolution, or of the proceedings under it. The resolution and proceedings are referred to here only for the purpose of showing that the amendment had not been regarded by Congress or the executive, so far as represented by the military authorities, as effecting an immediate removal of the officers described in the third section.

After the most careful consideration, I find myself constrained to the conclusion that Hugh W. Sheffey had not been removed from the office of judge at the time of the trial and sentence of the petitioner; and, therefore, that the sentence of the circuit court of Rockbridge county was lawful.

In this view of the case, it becomes unnecessary to determine the question relating to the effect of the sentence of a judge *de facto*, exercising the office with the color, but without the substance of right. It is proper to say, however, that I should have no difficulty in sustaining the custody of the sheriff under the sentence of a court held by such a judge.

Instructive argument and illustration of this branch of the case might be derived from an examination of those provisions of the Constitution ordaining that no person shall be a representative, or senator, or President, or Vice President, unless having certain prescribed qualifications. These provisions, as well as those which ordain that no senator or representative shall, during his term of service be appointed to any office under the United States, under certain circumstances, and that no person holding any such office shall, while holding such office, be a member of either House, operate on the capacity to take office. The election or appointment itself is prohibited and invalidated; and yet no instance is believed to exist where a person has been actually elected, and has actually taken the office, notwithstanding the prohibition, and his acts while exercising its functions have been held invalid.

But it is unnecessary to pursue the examination. The cases cited by counsel cover the whole ground, both of principle and authority.*

This subject received the consideration of the judges of the Supreme Court at the last term with reference to this and kindred cases in this district, and I am authorized to say that they unanimously concurred in the opinion, that a person convicted by a jury, and sentenced in court held by a judge *de facto*, acting under color of office, though not *de jure*, and detained in custody in pursuance of his sentence, cannot be properly discharged upon *habeas corpus*.

It follows that the order of the district judge must be reversed, and that the petitioner must be remanded to the custody of the sheriff of Rockbridge county.

Opinion of Judge Underwood.

In the matter of Cæsar Griffin—Petition for habeas corpus.

In entering upon the consideration of this case, I am oppressed by the gravity of the principles and consequences it involves. The history of civilization has established the fact that the liberties of the people in all modern nations depend upon the restraints which courts of justice have succeeded in opposing to the oppressions of tyrants and usurpers. And no device for this purpose can be compared with the writ of *habeas corpus*, which we have inherited from our English ancestors.

That great scholar and writer, Dr. Samuel Johnson, well said to his friend Boswell, "the *habeas corpus* is the single advantage which our government has over that of other countries."

The historian Macaulay, in his graphic description of the tyrant James the Second, has well written: "One of his objects was to obtain a repeal of the *habeas corpus* act, which he hated, as it was natural that a tyrant should hate the most stringent curb that ever legislation imposed on tyranny. This feeling remained deeply fixed in his mind to the last, and appears in the instructions which he drew up, when in exile, for the guidance of his son. But the *habeas corpus* act, though passed during the ascendancy of the whigs, was not more dear to the whigs than to the tories. It is, indeed, not wonderful that this great law should be highly prized by all Englishmen, without distinction of party; for it is a law which, not by circuitous, but by direct operation, adds to the security and happiness of every inhabitant of the realm."

The petition in the present case alleges that the petitioner is deprived of his liberty in violation of the Constitution of the United States, and the evidence proves that he is imprisoned

*Taylor *vs.* Skinner, 2 S. C., 696; State *vs.* Bloom, 17 Wis., 521, *Ex rel.* Ralston *vs.* Bangs, 24 Ill., 184.

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under color of a sentence pronounced against him by a person pretending to be a judge of the circuit court of Rockbridge county, in the State of Virginia; that the said pretended judge, having previously taken an oath as a member of the State legislature to support the Constitution of the United States, had engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof; whereas the Constitution of the United States (amendments, Art. XIV) provides that no such person as aforesaid shall hold any civil office under any State; and, consequently, the said pretended judge had no jurisdiction over the person or alleged offence of the petitioner, and all his proceedings in the case were invalid and absolutely void.

Two questions are before the court. They are both of a legal, not of a political character, and I propose to consider them strictly upon legal principles and judicial authority. They are

1. Did the writ properly issue in this case?

2. Ought the petitioner, on the consideration of the whole case, to be discharged?

1st. Did the writ properly issue?

The act of Congress of February 5, 1867, provides as follows:

"*Be it enacted, &c., &c.*, That the several courts of the United States and the several justices and judges of said courts within their respective jurisdictions, in addition to the authority already conferred by law, shall have power to grant writs of *habeas corpus* in all cases where any person may be restrained of his or her liberty in violation of the Constitution, or of any treaty or law of the United States; and it shall be lawful for such person so restrained of his or her liberty to apply to either of said justices or judges for a writ of *habeas corpus*, which application shall be in writing and verified by affidavit, and shall set forth the facts concerning the detention of the party applying, in whose custody he or she is detained, and by virtue of what claim or authority, if known; and the said justice or judge to whom such application shall be made shall forthwith award a writ of *habeas corpus*, unless it shall appear from the petition itself that the party is not deprived of his or her liberty in contravention of the Constitution and laws of the United States."

The petition, in form, complied with the requirements of the statute; and it did not appear from the petition itself that the party is not deprived of his liberty in contravention of the Constitution of the United States. Therefore the obligation would seem to have been imperative on the judge to whom the application was made to issue the writ. The language of the statute is sufficiently plain, even without the aid of judicial construction But it has had judicial construction by the highest authority in the land. In McCardle's case the Supreme Court of the United States, in an opinion delivered by its learned Chief Justice, with his usual force and elegance of expression, said:

"This legislation is of the most comprehensive character. It brings within the *habeas corpus* jurisdiction of every court and of every judge every possible case of privation of liberty contrary to the national Constitution, treaties, or laws. It is impossible to widen this jurisdiction."

A judge capable of understanding the plainest English language could entertain no doubt, under the statute, of his duty to issue the writ, on a petition such as was presented in this case; and if any doubt could have arisen under the statute standing alone, this decision of the Supreme Court of the United States would have removed it.

2d. Ought the petitioner, on the return, answer, and evidence, to be discharged?

The XIVth amendment to the Constitution provides:

"SEC. 3. No person shall be a senator or representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have been engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof."

The fact that the person who pronounced the sentence was disqualified, under the XIVth amendment of the Constitution of the United States, is not controverted, and I believe to be incontrovertible. But it is argued that the court was a court *de facto*, and that the disqualification of the judge cannot be availed of in a collateral proceeding.

Let us examine these two points:

First. That it was a court *de facto*. It is hardly worth our while to be frightened, at this day, by a little law Latin. *De facto* means of or from the fact, or, more properly, as used here, in fact; that is to say, the objection urged is, that this was a court in fact, if not in law.

Now, let us ask what makes it a court in fact? Is that a court in fact which the Constitution of the United States says shall not be a court? Then the Constitution is a dead letter—a mat to wipe our feet upon—not a shield to protect our breasts. There can be no such thing, in time of peace, when the national authority is everywhere re-established, as a court prohibited by the plain letter of the Constitution, (and a court composed of such judges is so prohibited,) and yet having power to deprive citizens of their life or their liberty. Such a proposition seems to me the most unmaintainable of absurdities on its very face.

If the doctrine here urged is correct, and is the doctrine on which our practice is to be based, it might be advantageously incorporated into this XIVth amendment and made a part of it. We will see how this amendment would then read. I know no better way to exhibit the untenableness of the proposition than thus to put it into the shape of that organic law which, it is contended, it ought to control.

"No person shall hold any civil office" in theory, though he may in fact, and as a rebel pretended judge may sentence loyal men to be imprisoned and to be hanged, "who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have

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engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof."

How would such a provision as that read? And yet, if it is to be the law administered by the court, it might as well be in the Constitution or on the statute-book.

As a judge of one of the courts of the United States I am sworn to support the Constitution of the United States. If, after having taken that oath, I were to hold that he shall be a judge of whom that Constitution says, "He shall hold no civil office," I could not look upon myself as other than a perjured man.

This great nation has spoken in the most solemn and authoritative manner in which its voice is ever heard, and has said, Such a man shall not be a judge; and am I, as an exponent of its will and power, to presume to answer back, I agree that in theory it shall be according to your command; but, in defiance of your express decree, he shall in fact, or, as lawyers say, *de facto*, be a judge, and he shall exercise all the power and authority of a judge over your lives and over your liberties

If this thing can be, then a single judge, sitting here in this court-room, has the power, attempted in vain by armies, to nullify the Constitution and set the laws enacted by the national legislature at defiance

What says the illustrious Chief Justice Marshall on the nature and obligation of the oath administered to judges?

He says: "It is apparent that the framers of the Constitution contemplated that instrument as a rule for the government of courts as well as of the legislatures." And he asks:

"Why otherwise does it direct the judges to take an oath to support it? This oath certainly applies in an especial manner to their conduct in their official character. How immoral to impose it on them if they were to be used as the instruments, and the knowing instruments, for violating what they swear to support!" * *

Again he says:

"Why does a judge swear to discharge his duties agreeably to the Constitution of the United States, if that Constitution forms no rule for his government? If it is closed upon him, and cannot be inspected by him; if such be the real state of things, this is worse than solemn mockery. To prescribe or to take this oath become equally a crime."

But it is contended that though the petitioner has raised a question of constitutional law, it is not our duty to look into the Constitution to determine it. What said Chief Justice Marshall to such an argument, when it was addressed to him and to the Supreme Court of the United States? He replied:

"The judicial power of the United States is extended to all cases arising under the Constitution.

"Could it be the intention of those who gave this power to say that in using it the Constitution should not be looked into? That a case arising under the Constitution should be decided without examining that instrument under which it arises?

"This is too extravagant to be maintained. In some cases, then, the Constitution must be looked into by the judges. And if they can open it at all, what part of it are they forbidden to read or to obey?" * * "It is declared that no 'tax or duty shall be laid on articles exported from any State.'

"Suppose a duty on the export of cotton, of tobacco, or of flour, and a suit instituted to recover it. Ought judgment to be rendered in such a case? Ought the judges to close their eyes on the Constitution, and only see the law?

"The Constitution declares 'that no bill of attainder or *ex post facto* law shall be passed.'

"If, however, such a bill should be passed, and a person should be prosecuted under it, must the court condemn to death those victims whom the Constitution endeavors to preserve?"

And the Constitution endeavors to preserve all men from the official acts of all those whom the XIVth amendment disqualifies for holding civil office. And if we are thus bound to obey the Constitution, even when we might shield ourselves by a law in violation of it, as Chief Justice Marshall declares, with what triple bonds are we bound to obey it, when, as in this case, there is not only no law against it, but when we have a law aiding and enforcing our obedience, enacted by the same Congress which submitted this provision of the Constitution to the people, and for the very purpose of making our duty so plain that to err would seem impossible.

What is called a court *de facto* in this case was not, in any proper and legal sense, a court. Nothing expressly prohibited by the Constitution was ever so called. A court is defined to be "an incorporeal political being, which requires for its existence the presence of the judges, or a competent member of them, a clerk, or prothonotary," &c. There was no judge present at that court, unless a man can be a judge of whom the Constitution declares he shall not be a judge. And I certainly shall never rule that the Constitution of this country is impotent, effete, and not to be obeyed I have neither the will nor the courage to attempt, by a judicial opinion, to overturn that Constitution which all the rebel armies assailed in vain, and which their cannon though it shook the continent, could never shake.

"If," asks Chief Justice Marshall, "an act of the legislature repugnant to the Constitution is void, does it, notwithstanding its invalidity, bind the courts and oblige them to give it effect? Or, in other words, though it be not law, does it constitute a rule as operative as if it was a law?" And he remarks: "This would be to overthrow in fact what was established in theory; and would seem, at first view, an absurdity too gross to be insisted on."

So, I ask, if the Constitution has declared that a person disqualified in a certain manner shall hold no civil office, and a person so disqualified attempts to exercise the office of judge, shall I hold that his acts, notwithstanding his constitutional disqualifications, bind this court, and oblige its judges to give them effect? And I say further, in the language of that illustrious chief justice: "This would be to overthrow in fact what was established in theory, and would seem to be an absurdity too gross to be insisted on."

From the earliest period in the history of the writ of *habeas corpus* it has been uniformly held,

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that one of the most conclusive grounds for discharging a prisoner under that great writ was that he was held under color of the authority of a court not of competent jurisdiction, although, ordinarily, the writ would not lie for a prisoner in execution; yet it would lie for such a prisoner if the execution issued out of a court not of competent jurisdiction.

Says the great Lord Chief Justice Wilmot, in his masterly exposition of the law of *habeas corpus*, contained in a series of learned and profound answers to questions propounded to him by the house of lords:

"If it appears clearly that the act for which the party is committed is no crime, or that it is a crime, but he is committed for it by a person who has no jurisdiction, the court discharges."

Now, what jurisdiction has a judge who is declared by the Constitution incapable of being a judge? Not a particle more than judge lynch, a modern committee of vigilance, or a town mob?

If he has any jurisdiction, then we have no constitution. Either all his official acts are void, or the Constitution is void. The two cannot both stand valid together; and if this court is bound blindly to consider such a court a court *de facto*, then this court is not itself a court *de facto*, but only in name.

The reports are full of cases in which proceedings of courts have been held to be void because the courts were composed, even in part, of disqualified magistrates.

In Regina *vs.* The Aberdale Canal Company, the proceedings of the commissioners were held to be void by the queen's bench of England, because a few, out of a large body of commissioners, were disqualified by one of the provisions of the statute known as the canal act. (14 Q. B., 854.)

In Regina *vs.* The Cheltenham Commissioners, the proceedings of the commissioners were quashed by the queen's bench, "because a question in the cause had been decided by a court improperly constituted." (12 Q. B., 467.)

Indeed, it is an old maxim of law, *judicum a non suo judice dictum*—judgment, if not pronounced by the proper judge, is of no effect.

I therefore conclude, that on general and long-established legal principles the petitioner is entitled to his discharge. But our duty in the case is not left to the guidance of general principles, although according to them it would seem to be plain enough. But it is specifically pointed out by the statute—the habeas corpus act of 1867. That act provides, that the "court or judge shall proceed in a summary way to determine the facts in the case, by hearing testimony and the arguments of the parties interested, and if it shall appear that the petitioner is deprived of his or her liberty in contravention of the Constitution or laws of the United States, he or she shall forthwith be discharged and set at liberty."

Now, it does appear in this case that the prisoner is deprived of his liberty in contravention of the Constitution, and it seems to me that nothing can be plainer than that we must discharge him, or violate an act of Congress and our oath of office.

Some other points in the argument in opposition it may be well enough to notice.

It is asserted that legislation by Congress is necessary to give effect to this constitutional provision—that it cannot act "*proprio vigore.*"

The provision, like that which says no bill of attainder or *ex post facto* law shall be passed, is a mere negation. It says no person disqualified, as this pretended judge is admitted to be, shall hold any office, and it no more needs additional legislation for the application of the writ of *habeas corpus*, than legislation is needed to understand and apply the simplest axioms of Euclid, the ten commandments, or the Lord's prayer.

It is said that the character or jurisdiction of the court cannot be examined in a collateral proceeding. But if this is a collateral proceeding I should like to know what is a direct one! We examine nothing but the exact point at issue. The petitioner alleges that he is imprisoned under color of authority of an unconstitutional tribunal. Under this allegation, which is denied by the opposing party, certainly the question whether it is an unconstitutional tribunals is the direct and only issue and in no sense collateral.

The writ of *habeas corpus*, as it applies to this case, is no collateral proceeding. It demands by no indirection, but in the most positive and direct manner possible, to know whether the petitioner is held in confinement by legal authority, and if at the time of the demand it can be shown that he is restrained of his liberty without lawful, much less constitutional authority, it requires immediate deliverance. It is the people's great writ of right and liberty, and cannot be abridged or defeated by any forms or pretences of precedent, by any legal quibbles, technicalities, or presumptions, which would prevent the most speedy, thorough, and rigid investigation.

To the prisoner, loaded with chains or pining within the bolts and bars of the most filthy dungeon, it proclaims the privilege of a hearing It says to the jailor: Tyrant, oppressor, and usurper, stand back; let me know for what cause and by what authority you presume to hold this man, made in the image of his Maker, in this durance, shut from the common air and sunlight bestowed by almighty Goodness as the common inheritance of the human race.

In the name of Runnymede, of British bills of rights, of the revolutions of 1688 and 1776, of the laws and Constitution of the United States, and of the God of liberty, of law, of justice, and equality, it demands the most thorough investigation of this case, and claims that no imprisonment is legal by any order, either of judge lynch, of a committee of vigilance, town mob, or of any person who is not at the time fully qualified to act in so solemn a transaction as that of imprisoning a fellow man.

And clearly every man, under constitutional prohibition, is as incapable of rightful, valid, official action as if he was physically dead.

Moreover, it is contended that great inconvenience will result from the enforcement of the Constitution and the laws. That argument is one which I think ought not to be very popular in this community. Whatever inconvenience may result from the maintenance of the Constitution and the laws, I think the experience of the last few years shows that much greater inconvenience results from attempting their overthrow.

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Where the words of the statute are clear, the argument of inconvenience is only for the legislature, and cannot be considered by the court. "Arguments drawn from impolicy or inconvenience," says Mr. Justice Story, "ought to have little weight. The only sound principle is to declare *ita lex scripta est*—to follow and to obey." (Conflict of Laws, 17.)

"Where the language is clear, and where, of course, the intent is manifest," says Mr. Chief Justice Shaw, "the court is not at liberty to be governed by considerations of inconvenience." (11 Pick., 407.)

In this case the language of the statute is perfectly clear, and the court is not at liberty to be governed by considerations of inconvenience.

The Constitution declares that "This Constitution, and the laws and treaties enacted in pursuance thereof, shall be the supreme law of the land. It does not say that they shall be the supreme law of the land when they are not found inconvenient. Had it so declared, the rebellion could have been accomplished without so much as a resort to arms.

As to any inconvenience which may arise, as is alleged, from turning criminals loose upon the community, an intelligent people will place the responsibility for that where it belongs, upon those who have presumed, in open defiance of the Constitution, to assume functions prohibited to them by that instrument, and not upon this court.

This circuit, in which the former circuit judge, Mr. Chief Justice Taney, spent almost his expiring breath in defence of the *habeas corpus*, is the last one in the country in which it should ever be shorn of its efficacy.

In that most celebrated case of James Sommerset, published in the English State Trials, Lord Mansfield well answered the argument of inconvenience, where it was urged that to discharge the petitioner would be to destroy the commercial supremacy of Great Britain.

In that case Charles Stewart, a Virginia planter, had, in 1769, just a hundred years ago, taken his slave Sommerset to England, where, incited perhaps by some Quaker or abolitionist, the slave ran away and claimed his freedom. The next year, when Stewart desired to sail for America, he caused the slave to be seized and put upon a vessel in the Thames. Lord Mansfield issued the writ of *habeas corpus*, and the case, after a second argument, the first not being entirely satisfactory, was decided in favor of the petitioner. Sergeant Davy closed his masterly speech in behalf of liberty in these magnificent words: "This air is too pure for a slave to breathe in."

Lord Mansfield, in his final disposition of the case, on the 22d June, 1772: "Whatever inconvenience therefore may follow from the decision, I cannot say this case is allowed or approved by the law of England; and, therefore, the black must be discharged."

In respectful imitation of these sublime authorities I will only add, the soil of Virginia, soaked with so much patriotic blood, poured out in the cause of constitutional, national sovereignty, should be fruitful in the products of peace, union, and fraternal concord, sustaining law-abiding men, implicitly obeying the Constitution of the country, and the proposition that no citizen, however humble, can be deprived of his liberty by the action of any pretended judge or other person in open defiance of a plain, palpable, clearly defined provision of that Constitution; and therefore, in my judgment, the petitioner should be discharged.

Can a Negro hold Office in Georgia?

DECISION AND OPINIONS OF THE JUSTICES OF THE SUPREME COURT OF THAT STATE.

Before announcing the judgment of the court, Judge McCay said:

The case of Richard W. White, plaintiff in error, against the State of Georgia, on the relation of Wm. J. Clements, defendant in error, comes before this court on the following state of facts:

Wm. J. Clements applied to the judge of the superior court of Chatham county, alleging that, at an election which had been held in that county for a clerk of the superior court, he and Richard W. White were the sole candidates. That Richard W. White had got a majority of the votes, but that he, Clements, had also got a good many votes, and that no other persons were running. The petition further stated, that Richard W. White had been declared elected, and had been commissioned, and was in the actual performance of the duties of the office, and that Richard W. White was a person of color, having one-eighth or more of African blood in his veins. That, therefore, under the laws of Georgia, he was ineligible to office; and further, that under the laws of Georgia, as White, the person having the majority of votes, was ineligible, he, Clements, having received the next highest number of votes, was entitled to the position. He prayed the court for leave to file an information for a *quo warranto*. To that petition, of which White was notified, he (White) filed a demurrer. Subsequently, however, he withdrew the demurrer to that petition, and the information issued in the name of the State of Georgia. The court passed an order directing the solicitor general for that circuit to make out an information in the name of the State, reciting, in effect, the facts which had been recited in Clements' petition, and calling upon White to show cause why a *mandamus absolute* should not issue against him, depriving him of the office and putting Clements in. White, at the proper time fixed by the information for answering, filed a demurrer to the information, and at the same time filed an answer denying that he was a person of color, or that he had one-eighth or more of African blood in his veins.

On this the court summoned a jury for the purpose of trying the issue. When the jury had been sworn, the defendant below (the plaintiff here) called up his demurrer to the information. It is stated in the record that the plaintiff, in the information, made no objection to taking up the demurrer at that time, but consented; and the court heard the motion, as an independent motion, before the case was submitted to the jury. The court decided that in the argument upon that motion—that demurrer—Clements,

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the movant in the general proceeding, was entitled to open and conclude the argument; that, the matter being before the jury, the general rule which gives to the party moving in a demurrer the right to open and conclude did not apply.

The court heard the argument on the demurrer and overruled the demurrer. The case then went to the jury on the issue of fact, whether or not White had one-eighth or more of African blood in his veins. On the trial there were various questions made as to the testimony. One witness testified that the defendant, White, was reputed in the neighborhood to be a colored person. Another witness testified that he (the witness) was a registrar of voters; that when White registered, he, the registrar, had affixed opposite White's name the letter "C," to denote that he was a person of color; that he subsequently posted the lists in a public place, and that they had remained there two or three weeks, without any application having been made to him to have that letter "C" erased or changed. It did not appear, however, that there was any notice to White that this letter "C" had been placed opposite to his name, nor did it appear that it was the law or the practice that, if he had applied to have it corrected, they would have corrected it; in other words, that it was the part or the duty of the officer at all to make that entry. At least it has not so been made to appear to us.

This evidence was objected to by the defence, but admitted by the court. The court also admitted as evidence the statement by a physician, an examining physician of an insurance company, that at a previous time he had examined White, and had pronounced him a mulatto. There was no testimony by the physician of what his opinion was at the time of the trial. The testimony was that at some previous time he had examined him, and was at that previous time of opinion that he was a mulatto.

In the further progress of the trial they proposed to introduce a copy of an application for a life insurance on the life of White in favor of his wife, which application purported to be signed by White. The application does not seem to have a word in it as to whether White was a white man or black man, it gave no indication as to his color; but on the back of it there was an entry, by a person who purported to be an examining physician, that White was a mulatto. The witness swore at first that he thought White signed the paper, but swore afterwards that he didn't know whether White had signed it or whether his wife had signed it for him. Objection was made to this paper on three grounds: one, that it was a copy-paper, though it was proven that the original was in New York; the other that there was no proof that the original had been executed; and, third, that in any event the paper amounted to nothing.

Another witness, also a physician, swore that he was a practicing physician, and that he had studied the science of ethnology; that that science taught men the rules by which the race of a man was ascertained, and this witness gave his opinion upon the point. The court admitted his opinion, that White was a person of color, as being the opinion of an expert. The case went to the jury on this testimony. There were some objections to the charge of the court, which we however have not noticed, because we didn't think the point very material. The jury found for the plaintiff in the information. Thereupon the court passed judgment, deposing White from his position as clerk of the superior court, and declaring that Clements was entitled to hold that office.

This case has been argued before us with a great deal of learning and ability.

This court has agreed upon the judgment which it will deliver in this case, but not upon the reasons upon which this judgment is founded. The court all agree that the judgment in the court below ought to be reversed, this court being unanimously of opinion that the court below erred in various of its rulings on the trial and on the question of the argument on the demurrer.

A majority of the court—the chief justice and myself—agree in the judgment that the court below erred in overruling the demurrer, it being our opinion that, under the Code of Georgia, a person of color is eligible to office in Georgia. My brother Brown, however, and myself do not exactly agree upon the grounds upon which we base that judgment. The statutes of the State of Georgia require that the court shall agree in the *decision* which it makes—the principle upon which it puts the case which it decides; and as my brother Warner, whilst he agrees to the general judgment, puts his opinion upon one set of grounds, and my brother the chief justice puts his upon another, while I put mine upon a third, we are unable to agree upon a statement of the general principles upon which we put our judgment. Hence, under the statute, we shall each give a statement of the ground upon which we assent to the judgment of this court.

I will, therefore, now read the grounds upon which the whole court bases its decision, the ground upon which the majority of the court bases its decision, and I shall also announce the principles upon which I myself hold that the court below erred.

As this is a case of a good deal of public importance, involving not only the rights of the defendant and this plaintiff in error, but of a very large portion of the people of this State, and one in which there is a great deal of interest taken, I have reduced to writing, in detail, my opinion; and I will preface the reading of the judgment of the whole court and of the majority of the court with some written remarks, preferring to do that rather than make a parol introduction.

Whatever may have been, under the Constitution of the United States, the abstract truth as to the political condition and status of the people of Georgia at the close of the late war, from the stand-point of a mere observer, it seems to me perfectly conclusive that the several branches of the present State government are shut up in the doctrine that the constitution and frame of civil government in existence in this State on the 1st of January, 1861, with all its disabilities and restrictions, was totally submerged in the great revolution which from 1861 to 1865 swept

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over the State. Early in June, 1865, the governor of 1860 was in prison at Washington, and there was not in the whole State a single civil officer in the exercise of the functions of his office.

The whole body lately acting had been chosen under the laws of the Confederate States, and the incumbents of 1860 had all either died or resigned or renounced their positions as officers under the Consitution of the United States, by swearing fealty to the confederacy and repudiating the Government of the Union.

The people of the State were, in the language of the President, without civil government of any kind—in anarchy. The State, as a State of the federal Union, still existed, but without any frame of civil government regulating, restraining, and directing the exercise of its functions. From that time until the present State government went into operation, the government of the State was, with more or less completeness, in the hands of the military authorities of the United States, and the entire ancient civil polity of the State was totally ignored. Directly in the teeth of the old constitution, the people of color were recognized as freemen, and as entitled to equal legal and political rights with the whites. The convention of 1867 met under the laws of the United States, and was elected and composed in total disregard of all the provisions and presumptions, qualifications, disqualifications, and distinctions of the old organization.

The black people participated in its election and in its composition on equal terms, in theory at least, with the white, and nothing can to my mind be plainer, than that by the whole theory then acted upon they were recognized as forming an integral part of the sovereign people then assembled in convention to form for their common benefit a constitution and frame of civil government.

Such being the facts of the case, it appears to me that this court, deriving its whole authority from the constitution then framed, and sworn to support it, is, from the very nature of the case, absolutely prohibited from recognizing, as then or now in force, either the constitution of 1860 or 1865, or any of the legal or political disabilities or distinctions among the people dependent upon them or either of them.

The convention met under the laws of the United States to form a constitution for a people without civil government.

It had nothing to repeal, nothing to modify, nothing to grant. None of the old constitutions of the State were at the time in operation—the convention met under entirely new ideas and new presumptions. It represented a new people—a people among whom slavery had ceased, and among whom black people as well as white were recognized as forming part of the political society, and entitled to equal participation in its rights, privileges, and immunities.

It is not necessary, for the purposes of this argument, that this theory shall be proven to have been a legal one under the Constitution of the United States. It is sufficient to state that it is true as a fact, and that the present state government is based upon it.

If, when the convention met in December, 1867, the ancient constitution of the State or any of its legal or political disabilities or disqualifying distinctions upon persons of color, were of force, then the convention itself was illegal, the present state government is illegal, this court is illegal? His honor the chief justice has his proper place in the executive chair, my respected associate and myself are private citizens, the plaintiff in error is a slave, and the whole political history of the State, since the imprisonment of Governor Brown, in June, 1865, a gigantic illegality.

I am aware that a very large class of our most intelligent people so at this moment honestly believe: to them this argument is not directed. But it seems to me that to a judge, holding his office under the present State government, forming an essential part of its machinery, these views must be of overwhelming force. If he assumes the power to decide at all, he must, it seems to me, base his judgment upon principles which do not, if adopted in his own case, utterly subvert his own authority.

I make these remarks with the greatest deference to the integrity and to the sound legal acumen of my associates. Honest men see things in different lights, and it is as presumptuous as it is uncharitable for one man to set up his convictions as the necessary guide of the conscience of another. These are my convictions, and as a matter of course I must act upon them, and accordingly, under the rules prescribed by the statute, I announce, as the general principles controlling my judgment in this case, the following:

By the whole court:

1. The statement of a registrar of voters that he had marked a registered person's name with a "C," to denote that he was colored, and had posted his lists for some time in a public place, and that no application had been made to have the said "C" erased, is no evidence that the person is a colored person, it not being shown that the person knew of the entry and that it was the subject of correction.

2. Although a copy of a paper proven to be beyond the jurisdiction of the court is good secondary evidence of its contents, yet it must be shown that the original was duly executed.

3. An application for a life insurance, though signed by the applicant, upon the back of which was an entry by the examining physician that the applicant was a mulatto, is no evidence, unless it be proven that the person signed the paper after the entry on it was made by the physician, and with knowledge of the entry and with intent to adopt it, or that he used the paper after the entry was made with a knowledge that such entry was there.

4. The statement by an examining physician that he had at a certain time examined a person, and had then been of the opinion that the person was a mulatto, is not evidence. If the physician is an expert, he must give his present opinion, and if not, he must state the facts upon which he bases his opinion. Whether or not one is a person of color, that is, has African blood in his veins, is matter of opinion, and a witness may give his opinion, if he states the facts upon which it is based. But whether the

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fact that he has one-eighth or more of such blood be matter of opinion or not, query?

5. One who testifies that he has studied the science of ethnology may give his opinion as an expert on the question of race. Its weight is for the jury.

Pedigree, relationship, and race may be proven by evidence of reputation among those who know the person whose pedigree or race is in question.

The whole court agree upon these propositions.

The majority of the court agree upon this proposition: Where a *quo warranto* was issued charging that a person holding an office was ineligible when chosen because of his having in his veins one-eighth or more of African blood, and there was a demurrer to the information, as well as an answer denying the fact, upon which denial there was an issue and a trial before the jury: held, that, by the Code of Georgia, a person having one-eighth or more of African blood in his veins is not ineligible to office in this State, and it was error in the court to overrule the demurrer and to charge the jury that if the plaintiff proved the defendant to have one-eighth or more of African blood he was ineligible to office in this State.

Whilst I agree that the Code of Georgia—the law of Georgia, as separate from the constitution—does make persons of color eligible to office, my opinion is that eligibility is guaranteed by the constitution of the State; and I announce these propositions as the general principles upon which my opinion is based:

1st. The constitution of Georgia, known as the constitution of 1868, is a new constitution, made by and formed for a people who at the time were by the facts of the case and by the laws of the United States without any legal civil government; and as the people of Georgia, without regard to past political distinctions, and without regard to distinctions of color, participated on equal terms in the election for the convention and in its composition and deliberations, as well as in the final ratification of the constitution it framed, in the construction of that constitution, and in the investigation of what rights it guarantees or denies, such distinctions are equally to be ignored.

2d. The rights of the people of this State, white and black, are not granted to them by the constitution thereof. The object and effect of that instrument is not to give, but to restrain, deny, regulate, and guarantee rights; and all persons recognized by that constitution as citizens of the State have equal legal and political rights, except as otherwise expressly declared.

3d. It is the settled and uniform sense of the word "citizen," when used in reference to the citizens of the several States of the United States and to their rights as such citizens, that it describes a person entitled to every right, legal and political, enjoyed by any person in that State, unless there be some express exception, made by positive law, covering the particular person, or class of persons, whose rights are in question.

4th. Words used in a statute or constitution have their ordinary signification, unless they be words of art, when they have the sense placed upon them by those skilled in the art, or unless their meaning be defined and fixed by law; in which latter case the legal meaning must prevail.

5th. By the 1648th and 1649th sections of Irwin's Revised Code, it is expressly declared, that among the rights of citizens is the right to hold office, and that all citizens are entitled to exercise all their rights as such, unless expressly prohibited by law; and as the constitution of 1868 expressly adopts said Code as the law of the State, when that constitution uses the word "citizen," it uses it in the sense put upon it by the express definition of the Code it adopted.

6th. Article 1 and section 2 of the constitution of 1868 expressly declares that all persons born in the United States, or naturalized therein, resident in this State, are citizens of this State; and as the Code adopted by the convention in express terms declares that among the rights of citizens is the right to hold office, a colored person born in the United States, and resident in this State, is by that section of the constitution guaranteed eligibility to office, except when otherwise prohibited.

7th. Nor would the repeal of those sections of the Code or their alteration deprive a colored person of the right thus guaranteed, since it is a settled rule that it is not in the power of the legislature to divest a right or change a constitutional guaranty by altering the legal meaning of the word by which that guaranty was made.

8th. The right to vote involves the right to be voted for, unless otherwise expressly provided, since it is not to be presumed, without an express enactment, that the principal is of less dignity or rights than the agent.

9th. There being in the constitution of 1868 various special disqualifications of electors for particular offices, and four separate sections detailing disqualifications for any office, and a black skin not being mentioned as one of these disqualifications, under the rule that the expression, &c., of one thing is the exclusion of others, persons of color electors are not disqualified from holding office.

10th. There never has been in this State, at any period of its history, any denial in terms of the right to vote or to hold office to colored persons, as such. By the old law, they were either slaves or free persons of color, and these rights were denied them, by declaring that they were not and could not be citizens of the State; and when article 1 section 2 of the constitution of 1868 recognized them as citizens, the right to vote and to hold office, except as otherwise provided by the constitution, was, *ex vi termini*, also guaranteed to them.

11th. Ineligibility to office involves not only the denial to the person claiming the place the right to be chosen, but, what is of far greater moment, the right of the selecting power to choose; and to make out a case of ineligibility there must be such a state of affairs as established not only the want of power to be chosen, but a denial of power in the selecting party to choose.

12th. The people of a State, in their collective capacity, have every right a political society

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can have, except such as they have conferred upon the United States, or on some department of the State government, or have expressly denied to themselves by their constitution; and as the right to select a public officer is a political right, the people, or that branch of the government clothed by the constitution with the power to choose, may select whomsoever it will, unless the right to choose a particular person or class of persons is expressly taken away by the constitution.

Chief Justice Brown then read from his written opinion, as follows:

The view which I take of the rights of the parties litigant in this case, under the Code of Georgia, renders it unnecessary for me to enter into an investigation of the question, whether the XIVth amendment of the Constitution of the United States, or the second section of the first article of the constitution of Georgia, which in substance is identical with the XIVth amendment, confers upon colored citizens the right to hold office. If the respondent in this case acquires the right by grant found in either of the said Constitutions, or in the Code of this State, it is sufficient for all the purposes of the case at bar, and entitles him to a reversal of the judgment of the court below, which was adverse to his right.

The third paragraph of the 9th article of the constitution of this State adopts, in subordination to the Constitution of the United States and the laws and treaties made in pursuance thereof, and in subordination to the said constitution of this State, the "body of laws known as the Code of Georgia, and the acts amendatory thereof, which said Code and acts are embodied in the printed book known as Irwin's Code," "except so much of the said several statutes, Code, and laws, as may be inconsistent with the supreme law herein recognized."

The Code, section 1646, classifies natural persons into four classes: 1st, citizens; 2d, residents; 3d, aliens; 4th, persons of color.

Section 46 of the Code declares that all *white* persons born in this State, or in any other State of this Union, who are or may become residents of this State with the intention of remaining herein; all *white* persons naturalized under the laws of the United States, and who are or may become residents of this State with the intention of remaining herein; all persons who have obtained a right to citizenship under former laws, and all children, wherever born, whose father was a citizen of this State at the time of the birth of such children, or in case of posthumous children at the time of his death, are held and deemed citizens of this State.

By the Code the distinction is therefore clearly drawn between citizens who are *white* persons and persons of color.

In other words, none are citizens under the "printed book known as Irwin's Code" but white persons. Having specified the class of persons who are citizens, the Code proceeds, in section 1648, to define some of the rights of citizens, as follows:

"Among the rights of citizens are the enjoyment of personal security, of personal liberty, private property and the disposition thereof, the elective franchise, *the right to hold office*, to appeal to the courts, to testify as a witness, to perform any civil function, and to keep and bear arms."

Section 1649 declares that "*All* citizens are entitled to exercise *all* their rights as such unless specially prohibited by law."

Section 1650 prohibits females from exercising the elective franchise or holding civil office.

Section 1651 prohibits minors from the exercise of civil functions till they are of legal age.

Sections 1652 and 1653 prohibit certain criminals, and persons *non compos mentis*, from exercising certain rights of citizens.

Article 3, chapter 1, title 1, part 2, of the Code, defines the rights of the 4th class of natural persons, designated as persons of color, giving them the right to make contracts; sue and be sued, give evidence, inherit, purchase and sell property; and to have marital rights, security of person, estate, &c., embracing the usual civil rights of citizens, but does not confer citizenship. Thus the Code stood prior to its adoption by the new constitution.

As already shown, it was adopted in subordination to the constitution, and must yield to the fundamental law whenever in conflict with it. In so far as the Code had conferred rights on the colored race, there is no conflict and no repeal. The constitution took away no right then possessed by them under the Code, but it enlarged their rights, as defined in the Code, by conferring upon them the right of citizenship. It transferred them from the 4th class of natural persons, under the above classification, who were denied citizenship by the Code, to the 1st class, as citizens.

The 46th section of the Code limited citizenship to white persons. The constitution struck out the word white, and made all persons born or naturalized in the United States, and resident in this State, citizens, without regard to race or color. It so amended section 46 of the Code as greatly to enlarge the class of citizens; but it repealed no part of section 1648, which defines the rights of citizens.

It did not undertake to define the rights of a citizen. It left that to the legislature, subject to such guarantees as are contained in the constitution itself, which the legislature cannot take away. It declares expressly that no law shall be made or enforced which shall "abridge the privileges or immunities of citizens of the United States or of this State." It is not necessary to the decision of this case to inquire what are the "privileges and immunities" of a citizen which are guaranteed by the XIVth amendment to the Constitution of the United States and by the constitution of this State. Whatever they may be, they are protected against all abridgment by legislation. This is the full extent of the constitutional guaranty. All rights of the citizen not embraced within these terms, if they do not embrace all, are subject to the control of the legislature.

Whether the "privileges and immunities" of the citizen embrace political rights, including the right to hold office, I need not now inquire. If they do, that right is guaranteed alike by the Constitution of the United States, and the constitution of Georgia, and is beyond the control

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of legislation. If not, that right is subject to the control of the legislature, as the popular voice may dictate; and in that case the legislature would have power to grant or restrict it at pleasure, in case of white persons as well as of persons of color. The constitution of Georgia has gone as far as the XIVth amendment has gone, but no further. An authoritative construction of the XIVth amendment by the Supreme Court of the United States upon this point would be equally binding as a construction of the constitution of the State of Georgia, which is in the same words.

Georgia has complied fully with the terms dictated by Congress in the formation of her constitution. She has stopped nothing short, and gone nothing beyond. The highest judicial tribunal of the Union will no doubt finally settle the meaning of the terms "privileges and immunities" of the citizen, which legislation cannot abridge; and the people of Georgia, as well as those of all the other States, must conform to, and in good faith abide by, and carry out, the decision. All the rights, of all the citizens of every State, which are included in the phrase "privileges and immunities," are protected against legislative abridgment by the fundamental law of the Union. Those not so embraced, unless included within some other constitutional guarantee, are subject to legislative action. These same rights which the XIVth amendment to the Constitution of the United States confers upon, and guarantees to, a colored citizen of Ohio, are conferred upon and guaranteed to every colored citizen of Georgia, by the same amendment, and by the constitution of the State, made in conformity to the reconstruction acts of Congress.

Whatever may or may not be the privileges and immunities guaranteed to the colored race by the Constitution of the United States and of this State, it cannot be questioned that both Constitutions make them citizens. And I think it very clear that the Code of Georgia, upon which alone I base this opinion, which is binding upon all her inhabitants while of force, confers upon all her citizens the right to hold office, unless they are prohibited by some provision found in the Code itself. I find no such prohibition in the Code affecting the rights of this respondent. I am, therefore, of the opinion that the judgment of the court below is erroneous, and I concur in the judgment of reversal.

DISSENTING OPINION OF JUDGE HIRAM WARNER.

The defendant is a person of color, having, as the record states, one-eighth of negro or African blood in his veins, who claims to be lawfully entitled to hold and exercise the duties of the office of clerk of the superior court of Chatham county, and the question presented for our consideration and judgment is, whether a person of color, of the description mentioned in the record, is legally entitled to hold office in this State, under the constitution and laws thereof?

The XIVth amendment to the Constitution of the United States declares that "all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States."

The constitution of this State declares that "all persons born or naturalized in the United States, and resident in this State, are hereby declared citizens of this State, and no laws shall be made or enforced which shall abridge the privileges or immunities of citizens of the United States, or of this State."

From the time of the adoption of the XIVth amendment and the adoption and ratification of the constitution of this State in 1868, the defendant became (notwithstanding his color and African blood) a citizen of the United States and of this State, and is entitled to have all the privileges and immunities of a citizen.

Does the fact that the defendant was made a citizen of the State, with all the privileges or immunities of a citizen thereof, confer upon him the legal right to hold office in this State as such citizen? When we take into consideration the definition and object of creating an office, and by what authority it is conferred upon a citizen, the distinction between the privileges and immunities of a citizen, as such, and his right to hold office, will be at once apparent. It will be seen that the privileges and immunities of a citizen, as such, is one thing, and that his legal right to hold office as such citizen, under the authority of the State, is another and quite a different question. What is an office? "An office," says Bacon, "is a right to exercise a public function or employment, and to take the fees and emoluments belonging to it. An officer is one who is lawfully invested with an office. It is said that the word *officium* principally implies a duty, and in the next place the charge of such duty, and that it is a rule that, where one man hath to do with another's affairs against his will, and without his leave, that this is an office, and he who is in it is an officer. By the ancient common law officers ought to be honest men, legal and sage, *et qui melius sciant et possint officis in intendre*, and this, says my Lord Coke was the policy of prudent antiquity, that officers did even give grace to the place, and not the place only to grace the officer." (7th Bacon's Ab., 270, title Offices and Officers.) Blackstone says, the king, in England, is the fountain of honor and of office, and the reason given is, that the law supposes that no one can be so good a judge of an officer's merits and services as the king, who employs him.

"From the same principle also arises the prerogative of creating and disposing of offices, for honors and offices are in their nature convertible and synonymous. All officers under the crown carry, in the eye of the law, an honor along with them, because they imply a superiority of parts and abilities, being supposed to be always filled with those that are most able to execute them." (1 Bl. Com., 271, 272.) Officers, says Blackstone, have a right to exercise a public or private employment, and to take the fees and emoluments thereunto belonging, and are also incorporeal hereditaments. (2 Bl. Com., 36.)

All citizens of the State, whether white or colored, male or female, minors or adults, idiot or lunatic, are entitled to have all the privileges

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and immunities of citizens, but it does not follow that all of these different classes of citizens are entitled to hold office under the public authority of the State because the privileges and immunities of citizens are secured to them. The State in this country, as the crown in England, is the fountain of honor and of office, and she who desires to employ any class of her citizens in her service is the best judge of their fitness and qualifications therefor. An officer of the State, as we have shown, "hath to do with another's affairs against his will and without his leave," and such officer must have the authority of the State to perform these public duties against the will of the citizen and without his leave. This authority must be conferred upon the citizen by some public law of the State from that class of her citizens which, in her judgment, will best promote the general welfare of the State. The right to have and enjoy the privileges and immunities of a citizen of the State does not confer upon him the right to serve the State in any official capacity until that right is expressly granted to him by law. Mr. Justice Curtis, in his dissenting opinion in the case of Dred Scott *v.* Sanford, 19 How., pp. 3 and 5, says: "So in all the States, numerous persons, though citizens, cannot vote or cannot hold office, either on account of their age or sex, or the want of the necessary legal qualifications." (Corfield *v.* Corvell, 4 Wash. C. C. Rep., 1 and 3, to the same point.)

The defendant, therefore, cannot legally claim any right to hold office either under the XIVth amendment of the Constitution of the United States or the constitution of this State, which make him a citizen, and guarantee unto him the privileges or immunities of a citizen, for he may well have and enjoy all the privileges and immunities of a citizen in the State without holding any office, or exercising any public or official duty under the authority of the State.

The privileges and immunities of a citizen of the State do not confer the legal right to hold office under the public authority of the State and receive the emoluments thereof. Does the public law of the State, recognized and adopted by the constitution of 1868, (known as Irwin's Code,) confer upon the defendant the legal right to hold office in this State?

The Code took effect as the public law of this State on the 1st day of January, 1863. By the 46th section thereof it is declared, "All white persons born in this State, or in any other State of this Union, who are or may become residents of this State, with the intention of remaining herein; all white persons naturalized under the laws of the United States, and who are or may become residents of this State, with the intention of remaining herein; all persons who have obtained a right to citizenship under former laws; and all children wherever born whose father was a citizen of this State at the time of the birth of such children, or in case of posthumons children at the time of his death, are held and deemed citizens of this State. Persons having one-eighth or more of negro or African blood in their veins are not 'white persons in the meaning of this Code. The 1646th section declares, that 'Natural persons are distinguished according to their rights and status, into, 1st, citizens; 2d, residents, not citizens; 3d, aliens; 4th, persons of color."

The persons to whom belong the rights of citizenship and the mode of acquiring and losing the same have been specified in a former article, (referring to article 46, before cited.) Among the rights of citizens are the enjoyment of personal security, of personal liberty, private property and the disposition thereof, the elective franchise, the right to hold office, to appeal to the courts, to testify as a witness, to perform any civil function, and to keep and bear arms. All citizens are entitled to exercise all these rights, as such, unless specially prohibited by law. (Sections 1647, 1648, 1649, 1650, 1651, 1652, 1653 of the Code.)

It will be remembered that, at the time of the adoption of the Code, in 1863, the defendant was not a citizen of this State, and was not recognized by the Code as a citizen thereof. By the 1646th section the status of the defendant is defined to be that of a person of color, and not that of a citizen.

The revised Code, adopted by the constitution of 1868, includes the act of 1866, which declares that "all negroes, mulattoes, mestizoes, and their descendants, having one-eighth of negro or African blood in their veins, shall be known in this State as persons of color," and especially defines their legal rights, but the right to hold office is not one of them. (Revised Code, section 1661.)

It is true that since the adoption of the Code the defendant has been made a citizen, but all the legal rights conferred upon citizens by the Code were conferred upon that class of persons only who are declared and recognized by the Code as citizens of the State at the time of its adoption. When the Code declares that it shall be the right of a citizen to hold office, such right is confined to that class of persons who are recognized and declared therein to be citizens of the State, and not to any other class of persons who might thereafter become citizens. So, where the Code declares that "all citizens are entitled to exercise all their rights as such, unless prohibited by law," it is applicable to that class of persons only who were declared to be citizens of the State at that time, and not to any other class of persons who might thereafter be made citizens of the State, such as Chinese, Africans, or persons of color. The truth is, that the public will of the State has never been expressed by any legislative enactment in favor of the right of the colored citizen to hold office in this State since they became citizens thereof.

Although these several classes of persons might be made citizens of the State, with the privileges and immunities of citizens, still they could not legally hold office under the authority of the State until that right shall be conferred upon them by some public law of the State, subsequent to the time at which they became citizens, so as to include them in its provisions. The public will of the State, as to the legal right of that class of her citizens to hold office, has never been affirmatively expressed; but, on the contrary, when the proposition was distinctly made in the convention which formed the present constitu-

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tion to confer the right upon colored citizens to hold office in this State, it was voted down by a large majority. (See Journal of Convention, p. 312.) So far as there has been any expression of the public will of the State as to the legal right of that class of citizens known as colored citizens, and since they became such, to hold office in this State, it is against that right now claimed by the defendant.

The insurmountable obstacle in the way of the defendant claiming a legal right to hold office in this State under the provisions of the Code is the fact that he was not a citizen of the State at the time of its adoption. The class of persons to which he belongs were not recognized by it as citizens, and therefore he is not included in any of its provisions which confer the right to hold office upon the class of citizens specified in the Code. The Code makes no provision whatever for colored citizens to hold office in this State; all its provisions apply exclusively to white citizens and to no other class of citizens.

The convention which framed the present State constitution, and declared persons of color to be citizens, could have conferred the right upon them to hold office, but declined to do so by a very decided vote of that body, and went before the people claiming its ratification upon the ground that colored citizens were not entitled to hold office under it; and there can be no doubt that the people of the State voted for its ratification at the ballot-box with that understanding.

But now it is contended that the defendant, though a colored person, is made a citizen of the State and of the United States, and that no enabling act has ever been passed to allow a naturalized citizen to hold office in this State when he possessed the other requisite qualifications prescribed by law; that the defendant, having been made a citizen of the State, is entitled to hold office in the same manner as a naturalized citizen could do. The reply is, that naturalized citizens were white persons, and as such had a common-law right to hold office—a right founded upon immemorial usage and custom, which has existed so long that "the memory of man runneth not to the contrary." The 1644th section of the Code simply affirms the common law as to the right of a white citizen to hold office in this State. No such common-law right, however, can be claimed in this State in favor of persons of color to hold office. They have but recently become entitled to citizenship, and have never held office in this State. In 1848, in the case of Cooper and Worsham *against* The Mayor and Aldermen of the City of Savannah, (4 Ga. Reps, 72,) it was unanimously held and decided by this court, that free persons of color were not entitled to hold any civil office in this State. The naturalized white citizen can claim his common-law right to hold office in this State; the colored citizen cannot claim any such common-law right, for the reason that he has never exercised and enjoyed it; and that constitutes the difference between the legal right of a naturalized white citizen to hold office in this State, and a person of color who has recently been made a citizen "since the adoption of the Code, and who is not embraced within its provisions."

The one can claim his common-law right to hold office in the State, the other cannot; and until the State shall declare by some legislative enactment that it is her will and desire that her colored citizens shall hold office under her authority, they cannot claim the legal right to do so, for we must not forget that the State is the fountain and parent of office, and may confer or refuse to confer the right to hold office upon any class of her citizens she may think proper and expedient.

When a new class of persons are introduced into the body politic of the State and made citizens thereof, who cannot claim a common-law right to hold office therein, it is incumbent on them to show affirmatively that such right has been conferred upon them by some public law of the State since they were made citizens thereof, to entitle them to have and enjoy such right. In other words, they must show the public law of the State enacted since they became citizens thereof, which confers the legal right claimed, before they can demand a judgment of the court in favor of such legal right.

All male white citizens of the State, whether native born or naturalized citizens, (having the necessary legal qualifications,) have a common-law right to hold office in this State; and, in order to deprive them of that common-law right, a prohibitory statute is necessary. A naturalized citizen had a common-law right to hold the office of President of the United States; hence the prohibition in the Constitution of the United States. But colored citizens of the State, who have recently been made such, cannot claim a common-law right to hold office in the State, as no prohibitory statute is necessary to deprive them of a right which they never had under the common or statute law of the State. When, therefore, it is said that colored citizens have the right to hold office in the State, unless specially prohibited by law, it must be shown affirmatively that they had previously enjoyed that right. If they cannot show their right to hold office in the State, either under the common law, the constitution, or statutes of the State, the fact that they are not specially prohibited from exercising a right which they never had amounts to nothing, so far as investing them with the right to hold office is concerned.

When and where and by what public law of the State was the legal right to hold office therein conferred on the colored citizens thereof? If this question cannot be answered in the affirmative, and the legal authority under which the right is claimed cannot be shown, then the argument, that inasmuch as there is no special prohibition in the law against the right of colored citizens to hold office, falls to the ground. If there was no existing legal right to hold office to be prohibited, the fact that there is no prohibition does not confer such legal right. There was no legal necessity to prohibit that which did not exist.

It is not the business or duty of courts to make the laws, but simply to expound and enforce existing laws which have been prescribed by the supreme power of the State.

After the most careful examination of this question, I am clearly of the opinion that there is no existing law of this State which confers the right upon the colored citizens thereof to hold

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office therein, and, consequently, that the defendant has no legal right to hold and exercise the duties of the office which he claims under her authority, and that the judgment of the court below, overruling the demurrer, should be affirmed.

Intermarriage of White and Colored Persons in Georgia.

OPINION OF THE SUPREME COURT OF THAT STATE.

Charlotte Scott, plaintiff in error *vs.* The State of Georgia, defendant in error. Indictment for adultery and fornication, from Dougherty county.

Brown, C. J., delivering the opinion.

The record in this case presents a single question for the consideration and adjudication of this court: Have white persons and persons of color the right, under the constitution and laws of Georgia, to intermarry, and live together in this State as husband and wife? The question is distinctly made, and it is our duty to meet it fairly and dispose of it.

The Code of Georgia, as adopted by the new constitution, section 1707, forever prohibits the marriage relation between the two races, and declares all such marriages null and void.

With the policy of this law we have nothing to do. It is our duty to declare what the law is, not to make law. For myself, however, I do not hesitate to say that it was dictated by wise statesmanship, and has a broad and solid foundation in enlightened policy, sustained by sound reason and common sense. The amalgamation of the races is not only unnatural, but is always productive of deplorable results. Our daily observation shows us that the offspring of these unnatural connections are generally sickly and effeminate, and that they are inferior in physical development and strength to the full blood of either race. It is sometimes urged that such marriages should be encouraged for the purpose of elevating the inferior race. The reply is, that such connections never elevate the inferior race to the position of the superior, but they bring down the superior to that of the inferior. They are productive of evil and evil only, without any corresponding good.

I do not propose to enter into any elaborate discussion of the question of policy at this time, but only to express my opinion after mature consideration and reflection.

The power of the legislature over the subject-matter, when the Code was adopted, will not, I suppose, be questioned. The legislature certainly had as much right to regulate the marriage relation, by prohibiting it between persons of different races, as they had to prohibit it between persons within the levitical degrees, or between idiots. Both are necessary and proper regulations. And the regulation now under consideration is equally so.

But it has been urged by the learned counsel for the plaintiff in error, that the section of the Code under consideration is in conflict with the eleventh section of the first article of the constitution of this State, which declares that "the social status of the citizen shall never be the subject of legislation."

In so far as the marriage relation is connected with the social status, the very reverse is true. That section of the constitution forever prohibits legislation of any character regulating or interfering with the social status.

It leaves social rights and status where it finds them It prohibits the legislature from repealing any laws in existence which protect persons in the free regulation among themselves of matters properly termed social, and it also prohibits the enactment of any new laws on that subject in future.

As illustrations, the laws in force when the constitution was adopted left the churches in this State free to regulate matters connected with social status in their congregations as they thought proper. They could say who should enter their church edifices and occupy seats, and in what order they should be classified or seated. They could say that females should sit in one part of the church and males in another; and that persons of color should, if they attended, occupy such seats as were set apart for them. In all this they were protected by the common law of this State. The new constitution forever guarantees this protection, by denying to the legislature the power to pass any law withdrawing it or regulating the social status in such assemblages.

And I may here remark, that precisely the same protection is guaranteed to the colored churches, in the regulation of social status in their assemblages, which is afforded the whites. Neither can ever intrude upon the other, or interfere with social arrangements without their consent.

The same is true of railroad and steamboat companies and hotel keepers. By the law in existence at the time the constitution was adopted, they were obliged to furnish comfortable and convenient accommodations, to the extent of their capacity to accommodate, to all who applied, without regard to race or color. But they were not compelled to put persons of different races or of different sexes in the same cars or in the same apartments, or seat them at the same table. This was left to their own discretion. They had power to regulate it according to their own notions of propriety, and to classify their guests or passengers according to race or sex; and to place them at hotels in different houses or different parts of the same house; or on railroads, in different cars; or on steamboats, in different parts of the vessel; and to give them their meals at different tables. When they had made public these regulations, all persons patronizing them were bound to conform to them, and those who did not like their regulations must seek accommodations elsewhere. There was no law to compel them to group together, in social connection, persons who did not recognize each other as social equals.

To avoid collisions and strife, and to preserve peace, harmony, and good order in society, the new constitution has wisely prohibited the legislature from enacting laws compelling these companies to make new social arrangements among their patrons, or to disturb those in existence. The law shall stand as it is, says the constitution, leaving each to regulate such matters as they think best, and there shall be no legislative

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interference. All shall be comfortably accommodated, but you shall not be compelled by law to force social equality, either upon your trains, your boats, or in your hotels.

The same remarks apply to the regulation of social status among families, and to the social intercourse of society generally.

This, in my opinion, is one of the wisest provisions in the constitution, as it excludes from the halls of the legislature a question which was likely to produce more unprofitable agitation, wrangling, and contention than any other subject within the whole range of their authority.

Government has full power to regulate civil and political rights, and to give to each citizen of the State, as our Code has done, equal civil and equal political rights, as well as equal protection of the laws. But government has no power to regulate social status. Before the laws the Code of Georgia makes all citizens equal, without regard to race or color; but it does not create, nor does any law of the State attempt to enforce, moral or social equality between the different races or citizens of the State. Such equality does not in fact exist and never can. The God of nature made it otherwise, and no human law can produce it, and no human tribunal can enforce it. There are gradations and classes throughout the universe. From the tallest archangel in heaven down to the meanest reptile on earth moral and social inequalities exist, and must continue to exist throughout all eternity.

While the great mass of the conquering people of the States which adhered to the Union during the late civil strife have claimed the right to dictate the terms of settlement, and have maintained in power those who demand that the people of the States lately in rebellion shall accord to the colored race equality of civil rights, including the ballot, with the same protection under the law which is offered the white race, they have neither required of us the practice of miscegenation, nor have they claimed for the colored race social equality with the white race. The fortunes of war have compelled us to yield to the freedmen the legal rights above mentioned, but we have neither authorized nor legalized the marriage relation between the races, nor have we enacted laws or placed it in the power of the legislature hereafter to make laws regarding the social status, so as to compel our people to meet the colored race on terms of social equality. Such a state of things could never be desired by the thoughtful and reflecting portion of either race. It could never promote peace, quiet, or social order in any State or community. No such laws are of force in any of the northern States, so far as I know, and it is supposed no considerable part of the people of any State desires to see them enacted. Indeed, the most absolute and despotic governments do not attempt to regulate social status by fixed laws, or to enforce social equality among races or classes without their consent.

As already stated, we are of the opinion that the section of the Code which forbids intermarriages between the races is neither inconsistent with, nor is it repealed by, the section of the constitution now under consideration. It therefore stands upon the statute-book of the State forever prohibiting all such marriages, and declaring them to be *null* and *void*.

Let the judgment of the court below be affirmed.

Opinion of Attorney General Hoar as to the Jurisdiction of Military Commissions in Texas.

ATTORNEY GENERAL'S OFFICE,
May 31, 1869.

Hon. JOHN A. RAWLINS,
Secretary of War.

SIR: Your letter of March 24, 1869, submitting for my opinion as to proper action to be had in the premises in the case of James Weaver, a citizen of Texas, who was tried before a military commission appointed by the commanding general of the fifth military district, under authority of section 3 of the act of March 2, 1867, to provide for the more efficient government of rebel States, and found guilty of murder and sentenced to be hanged, the record having been forwarded for the action of the President, as required by section 4 of said act, and returned by him to your department upon the 1st day of February last, without any action upon the same, was received on the 26th March last.

The grave importance of the questions involved required such careful and deliberate consideration, that, under the pressure of other official duties, I have not been able, until this time, to give it sufficient attention. Having now carefully examined it, I proceed to state the conclusions to which I have arrived from the papers accompanying your letter. It appears that James Weaver, a citizen of Bastrop county, in Texas, was indicted for murder in that county. By request of J. J. Thornton, district judge of the second district in Texas, made to General Reynolds, the commander of the fifth military district, accompanied by statement that a trial could not probably be had in the State courts, and asking that he may be tried by the military authorities, a military commission was organized at Austin, Texas, before which, on the 17th of September, 1868, and days following, Weaver was arraigned and tried. He was defended by counsel and found guilty, and sentenced to be hanged, and the question on which you wish my opinion seems to be this: Whether the general commanding the fifth military district had authority to take a man from a civil power and try him by military law, or, in other words, whether a military commission in Texas, in September, 1868, had jurisdiction over a citizen, not in the naval or military service, charged with the murder of another citizen, and under indictment and arrest therefor. From the letter of Judge Thornton to General Reynolds, above referred to, which is made a part of the record in this case, it appears Weaver was under indictment in the district court for the second judicial district of Texas for murder, and that the civil courts were so badly situated and managed that if left with them no trial could probably be had. Exceptions to the jurisdiction of the commission were filed by Weaver, who objected, firstly, that he was entitled to a trial by jury; secondly, that the Constitution of the United States provides that no person shall be twice put in jeopardy of life or limb for the same offence, that the offence

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with which he was charged belonged entirely to the civil courts of the State of Texas, and that he would be unable to plead the finding of the commission in bar in the district court in Bastrop county; thirdly, that before the date of the order convening the commission he was under indictment in civil courts and was under arrest to await trial therein, and that the said indictment for the same offence was still pending against him; fourthly, because the district court of Bastroy county was fully organized and prepared to pass upon all cases brought before it; fifthly, because he, the said Weaver, was a citizen, not connected with the army of the United States, and deceased was also a citizen. These exceptions were overruled by the commission. The statute of March 2, 1867, entitled "An act to provide for the more efficient government of the rebel States," declares in its preamble that no legal State governments or adequate protection for life or property then existed in the rebel States therein enumerated, including among them the State of Texas, and that it was necessary that peace and good order should be enforced in said States until loyal and republican State governments could be legally established: it is therefore enacted, that said rebel States should be made into military districts, and made subject to the military authority of the United States, as thereinafter prescribed; that it should be the duty of the President to assign to the command of each of said districts an officer of the army, and to detail a sufficient military force to enable such officer to perform his duties and enforce his authority in the district to which he was assigned. The 3d and 4th sections of said act are as follows:

"SEC. 3. *And be it further enacted*, That it shall be the duty of each officer assigned as aforesaid to protect all persons in their rights of person and property; to suppress insurrection, disorder, and violence, and to punish, or cause to be punished, all disturbers of the public peace and criminals; and to this end he may allow local civil tribunals to take jurisdiction of and to try offenders; or, when in his judgment it may be necessary for the trial of offenders, he shall have power to organize military commissions or tribunals for that purpose; and all interference under the color of State authority with the exercise of military authority under this act shall be null and void.

"SEC. 4. *And be it further enacted*, That all persons put under military arrest by virture of this act shall be tried without unnecessary delay, and no cruel or unusual punishment shall be inflicted; and no sentence of any military commission or tribunal hereby authorized, affecting the life or liberty of any person, shall be executed until it is approved by the officer in command of the district. And the laws and regulations for the government of the army shall not be affected by this act except in so far as they conflict with its provisions: *Provided*, That no sentence of death under the provisions of this act shall be carried into effect without the approval of the President."

The act also provided that its provisions should become inoperative when the States had adopted constitutions approved by Congress and senators and representatives were admitted therefrom; and that until the people of said States should be by law admitted to representation in Congress, any civil governments which may exist therein shall be deemed provisional only, and in all respects subject to the paramount authority of the United States at any time to abolish, modify, control, or supersede the same. As the State of Texas had not in September, 1868, and has not since, adopted a constitution in conformity with the provisions of the act, and has not become entitled to representation in the Congress of the United States, the act was operative in Texas at the time the military commission was organized for the trial of Weaver, and the commanding general exercised this discretion intrusted to him by 3d section, by deciding that it was necessary for the trial of an offender to organize a military commission for that purpose. If, therefore, this statute of March 2, 1867, is a constitutional and valid statute, it then appears the jurisdiction of military commissions was complete, and that there is no legal obstacle to the execution of its sentence. It is obvious, in the first place, that, under the Constitution, the United States Congress has no right to subject any citizen of a State to trial and punishment by military power in time of peace; but the power to declare war is, by the Constitution, expressly vested in Congress; it has also power to suppress insurrection, and to make all laws necessary and proper for carrying into execution all the powers vested by the Constitution in the Government of the United States, or in any department or office thereof. The power to declare war undoubtedly includes not only the power to commence a war, but to recognize its existence when commenced by others; to declare that there is a war, and thereupon to make provision for waging war; to determine, so far as the nation can assert and enforce its will, how long the war shall continue and when peace is restored. The Constitution has made no provision in terms for a rebellion of the magnitude of that which has occurred, involving destruction of all the legitimate and constitutional governments in the States of the Union and involving a war between those States and the national Government. But the Constitution is a frame of government, and clearly implies the endowment of that Government with all powers necessary to maintain its own existence and the vindication of its authority within the scope of its appropriate functions. When war was waged upon the United States by States of the Union as organized communities, Congress could and must recognize the existence of that war, and apply itself, by the means belonging to war, to the vindication of the national authority, the preservation of the national territory, and the restoration of a republican government, under the national Constitution, in each of the rebellious States. As was said by the Supreme Court in the Prize Cases, (2 Black, p. 673,) it is a proposition never doubted, that the belligerent party who claims to be sovereign may exercise both belligerent and sovereign rights. The territory possessed by the rebels might lawfully and constitutionally be treated by the United States as enemies' territory. In the language of the court, in the same case, all persons residing within this territory, whose pro-

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perty may be used to increase the revenues of the hostile power, are in this contest liable to be treated as enemies, though not foreigners. They have cast off their allegiance and made war on their Government, and are none the less enemies because they are traitors. Where all lawful governments have been extinguished by the rebellion on the theatre of active military operations, where war really prevailed, there is a necessity to furnish a substitute for the civil authority thus overthrown, to preserve the safety of the army and society; and as no power is left but the military, it is allowed to govern by martial rule until the laws can have their free course. The right to govern by military law under such circumstances was fully conceded in the opinion of the Supreme Court of the United States in *ex parte* Milligan, (4 Wall., p. 127.) The test is there suggested that the right to govern by military power depends upon the fact that the courts are actually closed, and that it is impossible to administer criminal justice according to law. But while the war continues, although military power may be the only government in territory held by force of arms, the military commander may make use of such local tribunals already existing as he may find it convenient to employ in subjection to his paramount authority. It then remains to consider: First, whether the State of Texas has been, during rebellion, so deprived of all constitutional and lawful government as a State, and so in armed hostility to the Government of the United States, as to be subject to military law when possession of her territory was regained by the military power of the United States; and, secondly, whether the right to hold and govern the State by military power has terminated. To the first question there can be but one answer. In language of Chief Justice Chase, in Texas vs. White *et al.*, decided at the present term of the Supreme Court, no one has been bold enough to contend that, while Texas has been controlled by a government hostile to the United States and in affiliation with a hostile confederation waging war upon the United States, senators chosen by her legislature or representatives elected by her citizens, were entitled to seats in Congress, or that any suit instituted in her name would be entertained in this court. All admit that during this condition of civil war the right of the State as a member, and of her people as citizens, of the Union, was suspended. The government and the citizens of the State, refusing to recognize their constitutional obligations, assumed the character of enemies, and incurred the consequences of rebellion. The second question is one of more importance and difficulty. Having suppressed the rebellion as far as it was maintained by an armed force, it became the duty of Congress to re-establish the broken relations of the State with the Union; and the same authority which recognized the existence of the war is, in my judgment, the only authority having the constitutional right to determine when, for all purposes, the war has ceased. The rights of war do not necessarily terminate with the cessation of actual hostilities. I can have no doubt that it is competent for the nation to retain the territory and the people which have once assumed a hostile and belligerent character (within the grasp of war) until the work of restoring the relations of peace can be accomplished; that it is for Congress, the department of the national Government to which the power to declare war is intrusted by the Constitution, to determine when the war has so far ended that this work can be safely and successfully completed. The act of Congress of March 2, 1867, is, in my opinion, a legislative declaration that in Texas the war, which sprang from the rebellion, is not, to all intents and purposes, ended; and that it shall be held to continue until, in conformity with the legislative will, a State government republican in form and subordinate to the Constitution and laws of the United States, for which the act makes provision, shall have been re-established. It is true that in several acts of Congress the suppression of the rebellion and the end of the war have in express terms or by implication been recognized, but it will be found on examination that these phrases have been used in regard to special subjects, which do not seem to me inconsistent with the proposition that for some purposes the rights of war are not ended; while, in respect to captured and abandoned property, a limitation of the right to commence suits in the Court of Claims has been fixed by statute, and for the purpose of settling the question of the pay of officers in the volunteer army the date of the President's proclamation declaring the insurrection at an end has been adopted to interpret the phrase "close of the war."

It does not seem to me inconsistent with either of these enactments that Congress should declare that the States whose civil governments have been destroyed should continue under military authority until such governments could be restored. Every act of Congress is to be presumed to be constitutional unless the contrary plainly appears. It is to be also presumed that Congress will provide for the restoration, through constitutional government, of the rebellious States, as speedily as in its judgment the public safety will allow; but until civil authority is restored, and the rights of persons and property can be protected in the region which has been the theatre of war by organized governments, the direction by Congress to employ a military force to give that protection and preserve the peace would seem to be the only alternative with anarchy. It appears by the papers submitted that the trial of Weaver before the military commission was fairly and carefully conducted, and that the murder of which he was convicted was wanton and cruel. A freedman who had been at work for Weaver, having chosen to leave his employment to go to work for another man, went to him in a field near his house on that morning to ask for the wages which were due him. Weaver seized an ox-band, beat him severely with that, and then sent his hired man to his house for a double barreled gun, loaded with buckshot, and on his return with it shot the freedman through the head, killing him instantly. There appears to have been neither provocation nor resistance; and this atrocious act was committed in the sight of the wife of the man murdered, who stood by her own door. The finding of the

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commission has been approved by the military commander, and has been certified to be regular and proper by the Judge Advocate General. I find no reason in law for the President's withholding his approval. The papers which were sent me are returned herewith.

Very respectfully, your obedient servant,

E. R. HOAR, *Attorney General.*

XLVI.

STATE PLATFORMS OF 1869.*

CALIFORNIA, IOWA, MISSISSIPPI, OHIO, PENNSYLVANIA, VERMONT, VIRGINIA, WASHINGTON TERRITORY.

CALIFORNIA.

Republican, July 22, 1869.

Resolved, That the Republican party of California gives its earnest support to the administration of President Grant, and do hereby endorse the acts and policy of his administration. We recognize the earnest effort of the Government to secure an economical administration of its affairs, to reduce expenses, to honestly pay the national debt, to prevent peculation and fraud upon the treasury, to enforce the collection of the revenue, and to cause the speedy restoration of public confidence in our financial strength and integrity.

2. That the negro question has ceased to be an element in American politics, and that the ratification of the XVth amendment to the Constitution ought to be followed by an act of universal amnesty and enfranchisement of the southern people.

3. That we regard with pride and satisfaction the evidences of an increasing immigration to this State of industrious and intelligent people from the Atlantic States and Europe, with whom we are anxious to share the benefits of a fruitful soil, a genial climate, and an advancing civilization; but, while giving preference to the immigration of people of our own race, we hold that unoffending emigrants from China to this State are entitled to full protection for their lives, liberty, and property, and due process of law to enforce the same, but we are opposed to Chinese suffrage in any form, and to any change in the naturalization laws of the United States.

4. That we recognize the power of the general Government to restrict or prevent Chinese immigration whenever the welfare of the nation demands such a measure, by terminating our commercial relations with China, but it should be considered that the adoption of a non-intercourse policy in respect to China surrenders to Europe the commerce of the empire of Asia. We believe that the general prosperity will be greatly enhanced by fostering commercial intercourse with Asia, and that the closing of our ports at this time against Chinese would be most injurious to the material interests of this coast, a reproach upon the intelligence of the American people, and contrary to the spirit of the age.

5. That the Republican party having ever had in its especial keeping the rights of labor and of the laborer, and removed therefrom the blighting curse of slavery, and inaugurated a new era, in which the wages of labor have greatly advanced, while the hours therefor have been correspondingly diminished, claim to have originated in this State and steadily supported what is known as the "eight-hour law," the sound policy of which has been proclaimed by a Republican Congress, and by a proclamation of a Republican President made applicable to the public works of the United States.

6. That we endorse the action of the Senate of the United States in rejecting the so-called "Alabama treaty," and consider it the duty of the general Government to demand full reparation for the injuries inflicted by the British Government and her people upon our commerce during the late rebellion.

7. That we are in favor of imposing upon all kinds and classes of taxable property in the State an equal share of the burdens of taxation, and to that end favor the organization of a State board of equalization or review, that the inequalities now existing under the present system of assessment and collection of the State revenues may be avoided.

8. That we are opposed to grants of State aid to railroads, and are in favor of limiting taxation to the amount of revenues absolutely requisite to pay the actual expenses of the State Government, and to maintain the financial credit of the State.

9. That we hail with joy the return of peace, and the promising signs of an increasing development of the country and the permanent prosperity of the whole people. We earnestly invite the co-operation at the ballot-box of all who agree to the foregoing declarations, regardless of old party ties or previous differences of opinion upon the now settled questions of slavery, rebellion, reconstruction, and negro suffrage.

*It is deemed inadvisable to enlarge this chapter and volume by presenting all the State platforms. Such only are given as are of most significance and recent date.

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Democratic, June 29, 1869.

Whereas upon the eve of a political canvass the time-honored usages of our party require that a platform of principles be announced for the government of those who may be elected to political office; and whereas new questions have arisen since the meeting of the last Democratic convention, making such action eminently proper: therefore,

Resolved, That the Democracy of California now and always confide in the intelligence, patriotism, and discriminating justice of the white people of the country to administer and control their Government, without the aid of either negroes or Chinese.

2. That the Democratic party view with alarm the action of an unscrupulous majority in Congress in their attempts to absorb the powers of the executive and judicial departments of the federal Government, and to annihilate the rights and functions reserved to the State Governments.

3. That the subjection of the white population of the southern States to the rule of a mass of ignorant negroes, their disfranchisement, and the denial to them of all those sacred rights guaranteed to every freeman, is an outrage and a wrong for which the history of free governments in modern times may be searched in vain for a parallel.

4. That the Democratic party is opposed to the policy of lending the credit of the State and squandering the State property upon railway or other corporations, to the detriment of the public interests, and the overwhelming increase of the State debt and taxation.

5. That the Democratic party ever has been, is now, and ever will be, the champion of the rights of the mechanic and workingman; that all the reforms having for their object the reduction of the hours of his labor, the enlargement of his privileges, and the protection of his personal liberty, have ever been demanded, enacted, and enforced by the Democracy; that we point with pride to the fact that in California it was the Democratic element in the legislature that passed and a Democratic governor that approved the eight hour law, and that we pledge ourselves to use our utmost exertions to carry the provisions of that law into full force and effect, as well as to labor in other directions for the cause of the sons of toil.

6. That we are opposed to the adoption of the proposed XVth amendment of the United States Constitution, believing the same to be designed, and if adopted, certain to degrade the right of suffrage; to ruin the laboring white man, by bringing untold hordes of Pagan slaves (in all but name) into direct competition with his efforts to earn a livelihood; to build up an aristocratic class of oligarchs in our midst, created and maintained by Chinese votes; to give the negro and Chinaman the right to vote and hold office; and that its passage would be inimical to the best interests of our country, in direct opposition to the teachings of Washington, Adams, Jefferson, and the other founders of the republic; in flagrant violation of the plainest principles upon which the superstructure of our liberties was raised, subversive of the dearest rights of the different States, and a direct step toward anarchy and its natural sequence, the erection of an empire upon the ruins of constitutional liberty.

7. That the Democracy of California believe that the labor of our white population should not be brought into competion with the labor of a class of inferior people, whose living costs comparatively nothing, and who add nothing to the wealth of our churches, schools, societies, and social and political institutions.

8. That we arraign the Radical party for its profligacy, corruption, and extravagance in public expenditures; for its tyranny, extortion, and disfranchisement; for its contempt of constitutional obligations; for placing the city of Washington in the hands of semi-civilized Africans; and we particularly condemn the appointment of healthy and able-bodied negroes to office while the land is filled with capable white citizens who are suffering for the common necessaries of life.

9. That we heartily endorse and approve of the manner in which the Democracy have administered the State government, and point with pride to the acts to protect the wages of labor, to lessen public and official expenses, and to the fact that, during the present State administration, the State debt has been reduced nearly $1,000,000, and taxation reduced from $1 18 on $100 to 97 cents.

10. That the so-called Alabama treaty having been rejected by the treaty-making power of the Government, the Democratic party, true to its record as the only political party which on such issues has uniformly proved itself faithful to our own country, will now, as heretofore, be found ready to sustain all measures demanded by the honest dignity and rights of the republic in its relations with all foreign Powers.

11. That all voters in the State of California who are opposed to the radical measures of Congress, including the proposed XVth amendment to the Constitution of the United States, and who are opposed to the appointment of negroes to office, be invited to unite with the Democracy in the coming contest.

12. That the Western Union Telegraph Company, which controls all the wires connecting the Atlantic with the Pacific, has, in instituting a tariff designed to give a virtual monopoly of eastern news to a few newspapers of one political party in this State, been guilty of a great public wrong, has betrayed the trust confided to it, and effectually restricted the liberties of the press, and that its action in this regard calls loudly for such legislative interference as shall prohibit discriminations, prevent the use of the telegraph as a political engine, and make it, like the mails, free to all.

13. That Hon. Eugene Casserly, by his manly and statesmanlike course in the United States Senate, deserves the confidence of the people of the State of California.

IOWA.

Republican, June 10, 1869.

Resolved, That we cordially endorse the administration of Governor Merril as wise, economical, and honest, and that it deserves, as it has received, the hearty approval of the people of Iowa.

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2. That we insist upon a continuance of strict and close economy in all departments of our State government, in order to the maintenance of the happy and exceptional financial condition to which our State has attained under Republican rule.

3. That the means now in the State treasury, and which may become available, ought to be used for the purpose of defraying the necessary expenditures of the State government economically administered, and for no other purposes; and no State taxes, or only the minimum absolutely required, should be levied or collected until such means are exhausted, to the end that the burden of taxation may be made as light as possible.

4. That we rejoice in the glorious national victory of 1868, which has brought peace and happiness and prosperity to our nation, and we heartily endorse the administration of General Grant.

5. That the Republican party of Iowa, being among the first since the rebellion to incorporate in a State constitution the great principle of impartial suffrage, cordially accepts the opportunity presented by adopting the XVth amendment to the Constitution of the United States of making the principle national.

6. That the public expenditures of the national Government should be reduced to the lowest sum which can be reached by a system of the most rigid economy; that no money should be taken from the national Treasury for any work of internal improvement, or for the erection of any public buildings not clearly necessary to be made or erected until the national debt is paid or greatly reduced; that all the money that can be saved from the national revenue honestly collected should be applied to the reduction of the national debt, to the end that the people may be relieved from the burden of taxation as rapidly as practicable.

7. That we endorse and approve the policy which the present Secretary of the Treasury of the United States has pursued.

Democratic, July 14, 1869.

Whereas upon the eve of a political canvass the time-honored usage of our party requires that a platform of principles be announced for the government of those who may be elected to office:

Resolved, That the Democratic party view with alarm the action of an unscrupulous majority in Congress, in their attempt to absorb the powers of the executive and judicial departments of the Government, and to annihilate the rights and functions reserved to the State governments.

2. That we favor a reform in the national banking system looking to an ultimate abolishment of that pernicious plan for the aggrandizement of a few at the expense of the many.

3. That now, as in times past, we are opposed to a high protective tariff, and that we will use every effort to prevent and defeat that system of national legislation which would enrich a small class of manufacturers at the expense of the great mass of producers and consumers, and that we are in favor of such reforms in our tariff system as shall promote commerce with every nation of the world.

4. That the pretended trial, conviction, and execution of persons not belonging to the military or naval service of the United States, by military commission, is in direct conflict with the Constitution, and we denounce the same as unworthy of a free people, and disgraceful to the American Government.

5. That we demand no more, and will submit to nothing less, than the settlement of the Alabama claims according to the recognized rules of international law, and that we declare it to be the duty of the government to protect every citizen, whether naturalized or native, in every right of liberty and property throughout the world, without regard to the pretended claims of foreign nations to their allegiance.

6. That we are in favor of, and insist upon, an economical administration of the national and State Governments, that the people may be as speedily as possible relieved from the load of taxation with which they are now oppressed, and that the public officers should be held to a strict accountability to the people for all their official acts.

7. That a national debt is a national curse, and that while we favor the payment of our present indebtedness according to the strict letter of the contract, we would rather repudiate the same than see it made the means for the establishment of an empire upon the ruins of constitutional law and liberty.

8. That in the opinion of this convention the so-called Maine liquor law, that now disgraces the statute-books of the State of Iowa ought to be repealed at the earliest possible moment.

The following resolutions were offered and rejected:

Resolved, That we are in favor of the repeal of the present prohibitory liquor law, believing it inadequate to accomplish the purposes designed by it, and as a substitute for the same we are in favor of the enactment of a stringent license law.

2. That we are opposed to the proposed XVth amendment to the Federal Constitution.

MISSISSIPPI.

Republican, July 2, 1869.

The Republicans of Mississippi, in convention assembled, in a spirit of amity and peace toward their opponents, and of justice to themselves, make the following declaration of principles and policy:

1. Unfaltering devotion to the Union, first, last, and forever.

2. Faith in and fidelity to the principles, objects, and aims of the great national Republican party, with which and with the President and Congress we are in full accord and sympathy.

3. A fair, impartial, just, and economical administration of the Government, national and State.

4. Full and unrestricted right of speech to all men, at all times and all places, with the most complete and unrestrained freedom of the ballot, including protection to citizens in the exercise of the suffrage.

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5. A system of free schools which shall place the means of liberal education within the reach of every child in the State.

6. Reformation of the iniquitous and unequal taxation and assessments which, discriminating against labor and laborers, have borne so unjustly and unequally upon the people.

7. That all men, without regard to race, color, or previous condition, are equal before the law; and that to be a freeman is to possess all the civil and political rights of a citizen, are not only enduring truths, but the settled and permanent doctrines of the Republican party.

8. This convention recognizes but two great national parties; that under the administration of the one, the material and industrial resources of the country will languish, whilst under the liberal and fostering care of the national Republican party, commerce, manufactures, and internal improvements by the General Government will surely make the people of Mississippi what nature, soil, and climate intend they should be—rich, prosperous, and contented.

9. Recognizing as peculiarly American and republican the sentiment that the true basis of government is the "consent of the governed," which, in a republic, is expressed through the ballot-box, we, in the language of the Chicago platform, "favor the removal of the disqualifications and restrictions imposed upon the late rebels in the same measure as the spirit of disloyalty may die out, and as may be consistent with the safety of the loyal people;" and we shall hail with unfeigned delight the day when the spirit of toleration now dawning upon our State shall be so firmly established as to warrant Congress and the nation in declaring disabilities and restrictions forever at an end—when there shall be no citizen of Mississippi clamoring for his rights.

10. That the present modified condition of public sentiment in this State renders it wise and expedient that the Republican party should embrace the opportunity which is to be presented in the approaching election of ratifying the new constitution, so far modified in the franchise and general provisions thereof as to conform to the Constitution of the United States and the reconstruction laws; and that, as soon as Mississippi shall be fully reconstructed, according to the true intent of the laws, all disabilities imposed upon the late rebels should be entirely removed.

11. That we favor the prompt ratification by this State of article XV as an amendment to the Constitution of the United States at the earliest practicable opportunity.

12. We declare for universal amnesty and universal suffrage, the enlightened spirit of the age demanding that the fossil remains of proscription must be numbered with the things of the past.

13. The languishing condition of our State, notwithstanding her genial climate and productive soil, capable of sustaining and inviting a population of 15,000,000, reminds us not only of the necessity of reconstruction on a proper basis, but of the need of immigration. Schemes designed for class immigration, such as laborers only, or favoring one section, or country, or people, or portions of people, over another, on account of political or any other causes, will meet with no success; plans to increase our population must embrace all countries, climes, people, professions, politics, and religious beliefs; any plan stopping short of this, or hesitating to give a practical, earnest, cordial welcome to settlers, without regard to race, color, locality, politics, or religion, will meet with merited failure, because indicating the existence of bigotry and intolerance.

14. We recognize in General Grant the chosen leader of our party and cause, as well as the representative man of the age. As Washington was in his time, so is Grant now "first in war, first in peace, and first in the hearts of his countrymen." Through his election, peace, toleration, and prosperity at last dawn upon Mississippi, and ere long throughout these States the old flag and the ancient principles he and it represent, will be respected, adopted, and adored. The magic words, "Let us have peace," possess a power, and have a mission, which will embrace the whole world, and will cease only with time.

15. We endorse and adopt his language, "that the question of suffrage is one which is likely to agitate the public so long as a portion of the citizens of the nation are excluded from its privileges," and, in his own words, we "favor such constitution and laws as will effectually secure the civil and political rights of all persons," a consummation we devoutly desire at the earliest practicable moment, with safety and justice to all.

16. We confide in and will support Major General Adelbert Ames, military commander and governor of this State. We look to him as the representative of the President and of Congress, and regard him as able and firm in peace as in war; his quiet yet decided administration commands our confidence and admiration. For his order relieving the poor of a heavy burden and unequal taxes, and for the order abolishing distinction of color for the jury, and for the marked ability and independence displayed by him, the loyal people owe him a debt of gratitude which they can never repay, save by a life of like devotion to the principles he represents.

17. We look to Congress as the assembled wisdom and expressed will of the nation. At whatever cost of obloquy or life, we shall in the future, as in the past, yield our unwavering fidelity to the laws and policy of the national legislature. A united nation and the principles of liberty owe their existence to-day to the firmness, patriotism, and wisdom of a Republican Congress.

Conservative Republican, June 23.

Resolved, That this convention now proceed to organize the National Union Republican party of the State of Mississippi.

2. That we express our unfaltering devotion to the great principles of the National Union Republican party, and that we look forward with hope and confidence to the early restoration of our State government in accordance with the reconstruction laws of the Congress of the United States.

3. That the repeated failures of all former and existing organizations to restore the State and to meet the requirements of the republican spirit

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of our institutions, by insisting upon measures of proscription far exceeding the provisions of the Constitution of the United States and the reconstruction acts of Congress, have rendered them unworthy of the respect and confidence of the voters of Mississippi.

4. That, in the language of President Grant, "the question of suffrage is one which is likely to agitate the public so long as a portion of the citizens of the nation are excluded from its privileges in any State;" and therefore we sincerely favor the addition of the proposed XVth amendment to the Constitution of the United States.

5. That we deprecate any attempt to impose upon the people of this State any greater disabilities than the Constitution and laws of the United States already recognize, and that we believe it to be the duty of all good citizens to use every effort to obliterate the animosities of the past, and to unite in the restoration of a State government based on the equal rights, civil and political, of men of every race.

6. That we express our thanks to the President and the Congress of the United States for rejecting the scheme to impose the rejected constitution upon the people of this State, and affirm our unwavering support of the administration of General Grant.

7. That we announce ourselves unqualifiedly in favor of universal suffrage, and universal amnesty, upon the restoration of the State to her federal relations, and pledge ourselves in good faith to urge upon Congress the removal of all political disabilities incurred by participation in the late rebellion.

8. That the State executive committee be authorized and instructed to issue, in behalf of this convention, an address to the people of this State, declaratory of the principles and sentiments of the National Union Republican party of Mississippi.

9. That the State executive committee be authorized and instructed to issue a call for a State convention, composed of delegates representing the different counties of the State, to meet at such time and place as they may deem expedient, for the purpose of nominating a State and congressional ticket.

OHIO.

Republican, June 23, 1869.

Resolved, That as citizens of the nation, representing the republican sentiment of an honored commonwealth, we regard with sincere satisfaction the fidelity evinced by General Grant to the Republican party, and his policy, both foreign and domestic, and of his national administration, and pledge our cordial support to the measures inaugurated to insure conciliation, economy, and justice at home, and command consideration and respect abroad.

2. That we hail with the profoundest satisfaction the patriotic and constitutional declaration of President Grant, in his inaugural address, that while he will, on all subjects, have a policy to recommend to Congress, he will have none to enforce against the will of the people; a sentiment which assures the country of an executive administration founded on the models of the administrations of Washington and Madison, and that will insure to Congress the unrestricted exercise of its constitutional functions, and to the people their rightful control of the Government.

3. That the abolishment of slavery was a natural and necessary consequence of the war of the rebellion, and that the reconstruction measures of Congress were measures well adapted to effect the reconstruction of the southern States and secure the blessings of liberty and a free government; and as a completion of those measures, and firmly believing in its essential justice, we are in favor of the adoption of the XVth amendment to the Constitution:

4. That the late Democratic general assembly, in its reckless expenditure of public money; its utter neglect of the business interests of the State by failing to enact the wise and much needed financial measures providing for the assessment and equalization of taxation prepared by the commission appointed by the preceding general assembly; its hostility to our benevolent and literary institutions; its failure to carry out the repeated pledges of the Democratic party to secure economy in the State; its extraordinary length of session in time of peace, resulting in an expense to the State amounting, for the pay of its members alone, to more than double that of the previous general assembly; its malignant attempts to disfranchise disabled soldiers and other citizens of the State; its attempt to take from the general Government the right to pursue, arrest, and punish those who violate the laws made in pursuance of the Constitution of the United States, and the vicious acts intended to destroy the power of the nation to preserve and protect the liberty and safety of its citizens, has shown the Democratic party unworthy of the trust, confidence, and support of an honest and patriotic people.

5. That the Republican party of Ohio is in favor of a speedy establishment of a soldiers' orphans' home in Ohio, not only as an act of justice to the many poor and helpless orphans of deceased soldiers, but as a recognition of the patriotic services of their fathers in the late war, and for the purpose of redeeming the pledges made by all loyal people to protect the families of those who fought and fell in the cause of human liberty and right.

Democratic, July 7, 1869.

Resolved, That exemption from tax of over $2,500,000,000 Government bonds and securities is unjust to the people, and ought not be tolerated, and that we are opposed to any appropriation for the payment of the interest on the public bonds until they are made subject to taxation.

2. That the claim of the bondholders, that the bonds which were bought with greenbacks, and the principal of which is by law payable in currency, should, nevertheless, be paid in gold, is unjust and extortionate, and if persisted in will force upon the people the question of repudiation.

3. That we denounce the high protective tariff which was designed only in the interests of the New England manufacturers; that said tariff is

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also, by its enormous impositions on salt, sugar, tea, coffee, and the necessaries of life, unendurable and oppressive, especially upon the people of the West, and that we demand its repeal and the substitution of another based upon revenue principles alone, upon the closest possible approximation to absolute free trade.

4. That the Democratic party of the United States have always been pre-eminently friendly to the rights and interests of the laboring men; that they are in favor of a limited number of hours in all manufacturing workshops, the hours dictated by the physical and mental well-being of the laborer; that they favor the most liberal laws in regard to household and homestead exemption from sale and execution; that they are also in favor of liberal grants of land from the public domain to actual settlers, without any cost, and are opposed to the donation of them to swindling railroad corporations; and that they are generally friendly to a system of measures advocated by the labor and industrial congresses, and we pledge the democratic party, if restored to power, to exercise their influence in giving them practical application.

5. That the attacks of Governor Hayes and Lee upon the doings of the late general assembly are false in fact, malicious in spirit, and unworthy of gentlemen occupying their elevated positions.

6. That the late general assembly were called upon to make large and extraordinary appropriations to rebuild the burned lunatic asylum, to provide a reform school for girls, to construct a new blind asylum, to make appropriations to pay over $80,000 of a judgment obtained in the supreme court of the State in favor of a life insurance and trust company, and to meet a deficiency of over $500,000 of the preceding Republican legislature, which, together with the extra compensation paid to the members, under the law passed by the Republican legislature, were provided for without an increase of the State levy; and the appropriations in the aggregate are much less than those of the preceding Republican legislature, without abstracting $800,000 from the relief fund for the maimed and disabled soldiers and their families.

7. That we hereby return our thanks to the fifty-eighth general assembly for their economical expenditure in the administration of the State government and the exposal of wholesale frauds in the erection of State buildings, whereby the people were swindled out of half a million of dollars by the negligence of the Republican State officials and the dishonesty of others.

8. That it is th right of each State to decide for itself who shall possess the elective franchise within it; that the attempt to regulate suffrage in Ohio by means of the so-called XVth constitutional amendment is subversive of the federal Constitution.

9. That the policy and legislation of the Radical party directly tend to destroy all the reserved rights of the States, and convert the Republic into a consolidated despotism; that whether such despotism be exercised by an emperor, a president, or a congress, the result would be fatal to liberty and good government; that consolidation in this country means the absolute dominion of monopoly and aggregate capital over the lives, the liberty, and the property of the toiling masses.

10. That we denounce the national banking system as one of the worst out-growths of the bonded debt, which unnecessarily increases the burden of the people $30,000,000 annually, and that we demand its immediate repeal.

11. That the trial and sentence to death by military commissions of citizens of Texas not in the military or naval service, when the civil courts were in unobstructed exercise of their functions in that State and in the time of profound peace, and the approval of that sentence by President Grant, are violations of the most sacred rights of American citizens guaranteed by their constitution, State and federal, and deserve and should receive the earnest condemnation of every lover of liberty and constitutional government.

12. That the numerous palpable and high-handed usurpations of the party in power; their many public and private acts of tyranny, trampling under foot the civil law and the guarantees of the Constitution; their continuing to deprive sovereign States of representation in Congress, and to govern said States by military rule, show them to be the party of despotism, and unworthy the confidence and support of a free people.

13. That we extend the right hand of fellowship, and recognize as brethren in a common cause, all conservative men, not heretofore Democrats, who will unite with us in rescuing the Government from the unworthy hands into which it has fallen; and we pledge the united and cordial support of the two hundred and fifty thousand Democrats in Ohio, whom we represent, to the ticket nominated by this convention, and presented by us to the suffrages of the people of Ohio.

PENNSYLVANIA.

Republican, June 23, 1869.

Resolved, That we rejoice in the glorious national victory of 1868, which is bringing peace, happiness, and prosperity to us as a nation.

2. That we wholly approve of the principles and policy of the administration of General Grant, and we heartily endorse every sentiment contained in his inaugural address, and especially do hereby ratify and approve the late amendment proposed by Congress to the Constitution of the United States, and known as the XVth amendment.

3. That we have confidence that the general administration will wisely and firmly protect the interests and dignity of the nation in respect to our just claims against Great Britain, and that we endorse the action of the Senate in rejecting the Johnson-Clarendon treaty, known as the Alabama claims.

4. That we heartily sympathize with the struggling peoples of all nations in their efforts to attain universal freedom and the invaluable rights of man.

5. That we confidently endorse the administration of General John W. Geary as wise, economical, and honest, and that it deserves, as it

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has received, the approval of the people of Pennsylvania; and we especially commend his uniform efforts to restrain the evils of special legislation.

6. That in Hon. Henry W. Williams, our candidate for the supreme court, we present a learned, pure, and patriotic jurist, who will adorn the high position to which we purpose to elect him.

7. That we reiterate and affirm our adherence to the doctrine of protection, as proclaimed in the 9th resolution of the platform adopted at the State convention of March 7, 1866.

8. That we endorse the ticket this day nominated, and pledge to it our hearty and cordial support.

Democratic, July 14, 1869.

Resolved, That the federal government is limited in power to the grants contained in the federal Constitution; that the exercise of doubtful constitutional powers is dangerous to the stability of the Government and the safety of the people, and the Democratic party will never consent that the State of Pennsylvania shall surrender her right of local self-government.

2. That the attempted ratification of the proposed XVth amendment to the federal Constitution by the Radical members of the last legislature, and their refusal to submit the same to a vote of the people, was a deliberate breach of their official duty and an outrage upon every citizen of the State, and the resolution making such ratification should be promptly repealed, and the amendment committed to the people at the polls for acceptance or rejection.

3. That the Democratic party of Pennsylvania is opposed to conferring upon the negro the right to vote, and we do emphatically deny that there is any right or power in Congress, or elsewhere, to impose negro suffrage upon the people of this State in opposition to their will.

4. That reform in the administration of the federal and State governments, and in the management of their financial affairs, is imperatively demanded.

5. That the efforts now being made for the amelioration of the condition of the laboring man have our most cordial co-operation.

6. That the legislation of the late Republican Congress outside of the Constitution, the disregard of the majority therein of the will of the people and the sanctity of the ballot-box in the exclusion from their seats in Congress of representatives clearly elected, the establishment of military governments in the States of the Union, and the overthrow of all civil governments therein, are acts of tyranny and usurpation that tend directly to the destruction of all republican government and the creation of the worst forms of despotism.

7. That our soldiers and sailors who carried the flag of our country to victory must be gratefully remembered, and all the guarantees given in their favor must be faithfully carried into execution.

8. Equal rights and protection for naturalized and native-born citizens at home and abroad. The assertion of American nationality, which shall command the respect of foreign Powers and furnish an example and encouragement to people struggling for national integrity, constitutional liberty, and individual rights.

9. That the present internal revenue and taxing system of the general Government is grossly unjust, and means ought at once to be adopted to cause a modification thereof.

VERMONT.

Republican, June, 1869.

Resolved, That the Republican Union party of Vermont hereby affirms its adherence to the cardinal principles of the party, and especially the exclusion of traitors from the positions of public trust, the right of impartial suffrage, and the integrity of the public credit.

2. That we have confidence that the administration will wisely and firmly protect the interests and dignity of the nation in respect to our just claims against Great Britain, and that, in our judgment, we can afford to wait until her majesty's government finds it for her interest to make settlement.

3. That we wholly approve the principles and policy of the administration of President Grant, and we particularly commend that point of his inaugural address wherein he declares, "I would protect the law-abiding citizen, whether of native or foreign birth, wheresoever his rights are jeopardized, or the flag of our country floats, and would protect the rights of all nations, demanding equal respect for our own."

4. That we cordially commend the State ticket this day nominated, and pledge to its support such a majority as shall show that Vermont takes no step backward in her Republican course.

Democratic, June 17, 1869.

Resolved, That the practical workings of the general Government, as administered by the opposition to the Democratic party, renews our zeal and love for the principles of our party.

2. That we are still in favor of a strict adherence to the Constitution of the United States, as the safeguard of the States.

3. That the Democracy, now as ever, make no distinction between citizens, whether of native or of foreign birth, and that we sympathize, now as ever, with men of all nationalities striving for self-government.

4. That we are opposed to the present unequal system of taxation of the general Government, and to the corrupt and wasteful expenditures of the proceeds of such taxation.

5. That we prefer a system of government in accordance with the principles of the Democratic party rather than the present system of Radical rule.

6. That we will heartily support the nominees this day made.

VIRGINIA.

Republican, March 11, 1869.

Resolved, That the early restoration of the State of Virginia to the federal Union, clothed with all the rights and privileges of the most favored States, is required by the obligations which the Government owes to the several States,

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is necessary to the just independence, dignity, and character of the State, is demanded by every consideration of patriotism as well as of interest; but that this return can now take place only under the authority of Congress, in the way pointed out by the reconstruction acts, and by the adoption, without change or modification, of the constitution soon to be submitted to the people, and an election by them of their chosen officials, public servants, and representatives, which election ought to be immediately held, nor can it be longer delayed without serious danger of final disaster.

2. That the election of General Grant has given a new guarantee and awakened new confidence in the full and final triumph of the principles of the Republican party. The sublime truth that all men are free and equal will now become a great living fact. All persons born in the United States and subject to its jurisdiction are citizens not only of the United States, but of any State in which they may choose to reside. Nor can any State deny to any citizen within its jurisdiction the equal protection of the laws, or the possession or enjoyment of any right or privilege on account of race, prior condition, or religious faith. We hail with gratitude the President's inaugural address, and will never cease to thank him for telling the American people that while suffrage is denied to a portion of the citizens of the nation there cannot be peace. We pray Almighty God that the hope which is expressed for the ratification of the XVth article of amendment may be shortly realized, so that hereafter no State of the federal Union can deny to any citizen the blessed boon of suffrage on account of the accident of color, nor ever deny to him who has the right to vote the twin privilege, the right to be voted for. We thank the President, too, for that prompt act of retributive justice which has restored Sheridan and Reynolds to the commands from which they were removed by an unjust Executive, because of their faithful discharge of duty, their noble homage to the rights of humanity, and the manly enforcement of the reconstruction laws of Congress. In this act of justice we recognize another sure ground for confident hope, that tried fidelity to the Government is to be regarded as a virtue, and the support of the Union is to be honorable. We promise to his administration our earnest support. We invoke his best powers and wisest counsels to aid us in an early, just, and lasting reconstruction of our commonwealth.

3. That the equality in rights of all the citizens, a just and proper provision for the education of the people through public schools open to all; a more equal system of taxation, a reasonable provision to secure a home, the necessaries of life, and the means of earning a support exempt from forced levy and sale; to preserve the plighted faith of the State by the payment of her honest debts; to do justly by making and impartially enforcing just and equal laws; to enrich the State by developing her resources; to secure an impartial jury trial by opening the jury-box to all the male citizens, without regard to race or color; to soothe animosities and strife by removing the causes of irritation; to create friendship and harmony by burying enmities; the right of the people to frame their own organic law, and the right of the real party of reconstruction to determine the manner in which, as well as the constitution and laws under which the State shall be restored, are all fundamental principles, vital to the success of the great work of reconstruction, and to which we now again pledge our faith, allegiance, and earnest support.

4. That no republican form of government can long exist, or be wisely administered, where a considerable portion of the people are disfranchised, and that the Republican party of the State of Virginia is not in favor of the creation of permanent disabilities, but pledges its influence and efforts to secure the removal of all the disabilities incurred by participation in the late rebellion from all the citizens of this State, who, accepting in good faith the results of the war by their acts and influence, shall cordially co-operate in an earnest effort for the restoration of the State under the reconstruction laws. We believe, however, that such disabilities should not be removed solely on the application of personal friends, nor from mere personal considerations, but because the individual himself possesses such superior claims for amnesty as are not possessed by the great body of disfranchised persons.

5. That the Republican party is the real party of reconstruction; that there can be no permanent and just restoration of the State excepting through its instrumentality. That all efforts for its destruction or demoralization are dangerous to the best interests of the State, fraught with most serious consequences to the Union men, and, if successful, must finally defeat reconstruction itself; to the preservation of the party and its organization in their integrity, to its most complete consolidation and its higher elevation, we pledge our utmost efforts, while at the same time we open its doors wide, and cordially invite to its support, labors, and triumphs, all citizens who, rising above mere partizanship, and standing upon the higher level of statesmanship, embrace the common faith and vital principles which lie at the foundation of true reconstruction, just equality, lasting peace, and State and national prosperity.

6. That five members of the State central committee, including the chairman thereof, be requested to wait on General Canby, when he shall assume command of this district, and request him to issue such orders to his officers as shall secure the abrogation of all distinctions as to race, color, or previous condition, in the selection of juries.

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Conservative,* April 29, 1869.

Whereas the people of the State of Virginia,

*These resolutions were reported April 28, by Messrs. Robert Ould, J. B. Baldwin, J. K. Edmunds, F. McMullen, L. B. Anderson, Jas. C. Campbell, A. Mosely, W. D. Haskins, and W. T. Sutherlin—a majority of the committee. Messrs. John Goode, Jr., Hugh Latham, and J. G. Mason presented the following minority report:

Whereas the people of Virginia, by their delegates duly chosen, met in convention in this city in the month of December, 1868, and, after solemn and mature deliberation adopted their "declaration of principles," setting forth and defining the policy of the white people of the State;

And whereas in the said "declaration of principles," in its own language, did distinctly declare

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by their delegates in convention duly chosen, met in convention in this city in the month of

that the government of the State and of the Union were formed by white men to be subject to their control, and that suffrage should be so regulated by the States as to continue the system under the control and direction of the white race, and that in the opinion of this convention the people of Virginia will sincerely co-operate with all men throughout the Union, of whatever name or party, who will labor to restore the constitutional Union of the States, and to continue its government and those of the States under the control of the white race;

And whereas the organization of the conservative party of the State of Virginia exists by authority of the said convention and the action of the people thereunder;

And whereas the Congress of the United States have directed an election in this State to be ordered by the President, whose proclamation is daily expected, at which election the Underwood constitution is to be submitted to the people for ratification or rejection, and at the same time an election is to be held for State officers;

And whereas, for the purpose of consolidating and making effective the entire strength of the Conservative party in the State in opposition to the said constitution, the State executive committee and the county and city superintendents, in the exercise of the powers confided in them on the —— day of ——, 1868, did nominate a State ticket: Now, therefore, be it

Resolved, That the declaration of principles unanimously adopted by the said convention, composed of the representatives of the white men of all parts of the State, is binding upon the body until it shall have been revoked or modified by another convention of equal powers, and this meeting has no right to abandon the same.

2. That this meeting earnestly recommend to the people of Virginia to adhere steadfastly to the declaration of principles, and to the plan of organization adopted by themselves in convention assembled, and to continue to follow the leadership of their nominees, who have upheld the principles of their organization with such conspicuous gallantry and devotion.

3. That the clauses of the Underwood constitution proposed to be submitted to a separate vote are immaterial and insignificant compared to the leading features of that instrument: Universal negro suffrage, negro eligibility to office. That the same number of votes that will strike out the clauses to be submitted to a separate vote, will, if polled to that effect, defeat the whole constitution.

4. That the military rule of one of our own race, responsible to his superiors, is far preferable to the domination of an irresponsible multitude of ignorant negroes; and that, impelled by these considerations, we call upon all white men, whether native or adopted citizens, to vote down the constitution, and thereby save themselves and their posterity from negro suffrage, negro office-holding, and its legitimate consequence—negro social equality.

5. That even were an abandonment of the above-mentioned principles to be agreed on by this body, the 7th section of the election law, entitled an act authorizing the submission of the constitution, &c., to the vote of the people, holds the restoration of the State subject to the subsequent action of Congress, and that in this fact we find abundant reason to believe other conditions may be imposed upon us.

6. That the act in question imposes a condition precedent in the adoption of the XVth amendment, which is in violation of every principle of constitutional law, and should not of right be endorsed by the people of Virginia.

Mr. Shackelford, of Culpeper, objected to both reports, and moved the following:

Resolved, That this meeting adjourn, to meet again ten days after the proclamation of the President of the United States fixing the day of voting on the constitution for Virginia and of election of officers under said constitution.

2. That the people of the counties of the State be requested to send delegates to the said adjourned meeting, to act in conjunction with the present representatives, for the purpose of considering and definitely acting upon the said constitution, or such modifications as may be presented by the President to the people for their adoption or rejection.

The convention refused, by yeas 29, nays 36, to lay the reports on the table; and, April 29th, the minority report having been withdrawn to give opportunity for the renewal of Mr. Shackelford's motion to postpone, the latter was debated and rejected by yeas 24, nays 54; after which, without a division, the majority report was adopted.

Resolutions unanimously adopted by the Conservative convention, December 12, 1867, were as follows:

1. This convention doth recognize that, by the results of the late war, slavery has been abolished; and it doth declare that it is not the purpose or desire of the people of Virginia to reduce or subject again to slavery the people emancipated by the events of the war, and by the amendment to the Constitution of the United States.

2. This convention doth declare, that Virginia of right should be restored to her federal relations with the Government of the United States, and that it is not in the contemplation of the people of Virginia to violate or impair her obligations to the federal Union, but to perform them in good faith.

3. This convention doth solemnly declare and assert, that the people of Virginia are entitled to all the rights of freedom, and all the guarantees therefor, provided by the Constitution of the United States; and they insist on the same as unquestionable, and that the said Constitution, which all are sworn to support, does not justify the governing of Virginia by any power not delegated by it, nor ought she, under it, to be controlled by the federal Government, except in strict accordance with its terms and limitations.

4. This convention doth declare, in the language of a resolution adopted by a public meeting held at the Cooper Institute, in the city of New York, "That the policy which continues to subject the people of ten States of the Union to an irresponsible government, carried on by military

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December, 1867, and appointed an executive committee to organize the counties and cities of the State with a view to consolidate the strength of the conservative party;

And whereas the State executive committee and city and county superintendents did in the month of May, 1868, meet in this city and nominate a State ticket for the suffrage of the people;

And whereas said executive committee and superintendents have again assembled to consider the present state of affairs, and each candidate, with patriotic desire to promote the prosperity and welfare of the State, has resigned his candidacy: Now, therefore, be it

Resolved, That this meeting accepts the said resignations of said candidates, and hereby expresses its high appreciation of their devotion to the best interests of the State, and of their zeal and ability in the discharge of those duties which their candidacy imposed on them.

2. That notwithstanding the accepted resignations of our nominees, the conservative voters of the State are urged to organize for the purpose of defeating such obnoxious provisions of the constitution framed by the late convention in Richmond as may be separately submitted, and to that end, as well as to secure the election of proper persons to the legislature, the organizations already in existence are exhorted to increased activity, and in those localities where no organizations have been formed the people are earnestly requested to meet together and adopt measures for the purpose of preventing the incorporation of such iniquities in the organic law of the State.

3. That this convention, while expressing its hostility to the leading and general features of said constitution, and while urging the necessity of organization for the purpose of defeating such provisions as may be submitted separately, declines to make any recommendation to the conservative voters of the State as to their suffrages upon the constitution expurgated of said provisions, or as to the candidates that may be before the people, feeling well assured that their good sense and patriotism will lead them to such results as will best subserve the true and substantial interests of the Commonwealth.

power, is inconsistent with the express provisions of the Constitution of the United States, and is subversive of the fundamental ideas of our Government and of civil liberty; and the object for which this great wrong has been persisted in, as now being disclosed to the people of this country and to the world, to-wit, to subject the white people of these States to the absolute supremacy, in their local governments and in their representation in the Senate and House of Representatives, of the black race, just emerged from personal servitude, is abhorrent to the civilization of mankind, and involves us and the people of the northern States, in consequence of surrendering one-third of the Senate and one-quarter of the House of Representatives, which are to legislate over us, to the dominion of an organized class of emancipated slaves, who are without any of the training, habits, or traditions of self-government.

5. This convention, for the people of Virginia, doth declare that they disclaim all hostility to the black population; that they sincerely desire to see them advance in intelligence and national prosperity, and are willing to extend to them a liberal and generous protection. But that while, in the opinion of this convention, any constitution of Virginia ought to make all men equal before the law, and should protect the liberty and property of all, yet this convention doth distinctly declare, that the governments of the States and of the Union were formed by white men, to be subject to their control; and that the suffrage should still be so regulated by the States as to continue the federal and State systems under the control and direction of the white race.

6. That, in the opinion of this convention, the people of Virginia will sincerely co-operate with all men throughout the Union, of whatever name or party, who will labor to restore the constitutional union of the States, and to continue its government and those of the States under the control of the white race.

WASHINGTON TERRITORY.

Republican.

Resolved, That the principles of the Republican party, as declared by the last National Republican convention at Chicago, meet with our hearty approval, and adherence thereto by the national, State, and territorial legislatures, will secure the peace and prosperity of our country.

2. That we recognize the great principles laid down in the immortal Declaration of Independence as the true foundation of democratic government, and we hail with gladness every effort toward making these principles a living reality on every inch of American soil.

3. That we regard with great pride and satisfaction the accession of the wise, efficient, and victorious leader of the American army, General Grant, to the high and honorable position of President of the United States, and confidently rely upon the earnest co-operation of the different branches of the Government for the enactment and enforcement of such measures as shall secure the rights and liberty of every American citizen, upon principles of justice and equality, and that respect for the laws by the people that will insure the peace and progress of the entire country.

4. That the interests of Washington Territory can best be promoted by the election of an able Republican representative of our people as delegate to Congress, who will exert himself to obtain the fostering care and material aid of the general Government for our territory, and secure the just rights of each and all of our citizens, and who, as opportunity offers, will make known to the people of the States, by public addresses, the great advantages and inducements our territory presents to capital and population.

5. That a system of internal improvements in our territory should receive the encouragement and support of the general Government, in order that our important resources may be developed and the prosperity of the country promoted.

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Among these internal improvements the construction of the Northern Pacific, Columbia River and Puget Sound, and Walla Walla and Columbia River railroads are of great and paramount importance, and their early completion highly necessary for the interests of not only this Territory, but also those of the entire country.

6. That the nominee of this convention can, and by the hearty and united efforts of the Union Republican party will, be triumphantly elected, and to that end all personal preferences and prejudices should be waived for the general good, and the present as well as future success of the Republican party and its principles be thereby effectually maintained.

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Democratic.

Resolved, That the Democracy of Washington Territory rely upon the justice and patriotism of the American people for the ultimate triumph of democratic principles, which alone can effect the full and complete restoration of the American Union, and restore to the people and the States respectively their rights under the constitution.

2. That this Government was founded by white men, and that we are opposed to the extension of the elective franchise or citizenship to negroes, Indians, or Chinamen.

3. That the recent attempt on the part of the Radical party in Congress to disfranchise the people of the Territory indicates a purpose in that party to destroy the liberties of the people.

4. That we are opposed to the proposed XVth amendment of the Constitution of the United States.

5. That the exclusion of any State from representation in Congress in time of peace is a dangerous assault upon the liberties of the people, in violation of the principles of our Union, and subversive of the rights of the Constitution.

6. That we are opposed to the present system of Government taxation, and are in favor of raising the necessary revenue for Government purposes by an *ad valorem* tax on the entire imports and property of the country.

7. That we favor the construction of railroads, the development of the vast resources of our Territory, and believe that Government should aid the construction of the same, and we acknowledge the important services rendered to our Territory in projecting the North Pacific railroad by the late I. I. Stevens.

XLVII.

VOTES OF STATE LEGISLATURES

ON THE PROPOSED XVTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES.

Alabama.

[Not yet voted.]

Arkansas.

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SENATE, *March* 13, 1869.

YEAS—Messrs. Barber, Beldin, V. Dell, Evans, Hadley, Harbison, Hunt, Hemingway, Keeton, Mallory, Martin, Mason, Portis, Rogers, Sarber, Snyder, Vance, Wheeler, Young—19.

NAYS—Messrs. Sanders, Ray—2.

HOUSE OF REPRESENTATIVES, *March* 15, 1869.

YEAS—Messrs. John G. Price, [Speaker,] Isaac Ayres, Samuel Bard, Joseph Brooks, Wm. A. Britton, James A. Butler, Abraham T. Carroll, Jeremiah Clem, Robert S. Curry, Charles C. Farrelly, Edgar D. Fenno, George M. French, John H. Fitzwater, Jerome W. Ferguson, Solomon Exon, John J. Gibbons, James M. Gray, William H. Grey, Arthur Gunther, John W. Harrison, Asa Hodges, Jeffrey A. Houghton, Jacob Hufstedler, Daniel Hunt, Daniel R. Lee, James M. Livesay, Z. Henry Manees, Alfred M. Merrick, Solomon Miller, Jesse Millsaps, Saml. F. Mitchell, Wm. T. Morrow, Peter Moseley, Wm. S. McCullough, Nathan M. Newell, *David Nicholls*, Marville M. Olive, John F. Owen, Newton L. Pears, Nathan N. Rawlings, Moses Reed, Anderson L. Rush, Richard Samuels, Ephraim Sharp, Daniel J. Smith, Wm. W. Stansberry, John B. C. Turman, Daniel P. Upham, Benj. Vaughan, Jas. T. White, John K. Whitson, Wm. H. Wills, Wm. H. Wright—53.

NAYS—0.

California.

[Not yet voted.]

Connecticut.

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SENATE, *May* 7, 1869.

YEAS—Messrs. Calvin O. King, Samuel W. Dudley, Erasmus D. Avery, Henry W. Kingsley, Aaron E. Emmons, Heusted W. R. Hoyt, David Gallup, Joseph D. Barrows, Charles B. Andrews, Oscar Leach, Carnot O. Spencer, Chas. Underwood, Edwin D. Alvord—13.

NAYS—Messrs. *George M. Landers, N. Webster Holcomb, Lucian W. Sperry, Alfred B. Judd, Owen B. King, E. Grove Lawrence*—6.

NOT VOTING—Edward N. Shelton, *James S. Taylor*—2.

HOUSE OF REPRESENTATIVES, *May* 13, 1869.

YEAS—Messrs. Henry Woodford, Henry Sage, Albert C. Raymond, James F. Comstock, Daniel Phelps, Caleb Leavitt, George S. Miller, Rufus Stratton, Thomas Cowles, Samuel Q. Porter,

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Abira Merriam, Byron Goddard, Charles H. Arnold, Horace Eddy, Samuel Rockwell, Robert Sugden, Benjamin F. Hastings, Samuel N. Reid, John M. G. Brace, Joseph J. Francis, Joseph T. Hotchkiss, Julius A. Dowd, Stephen R. Bartlett, Jonathan Willard, Clinton Clark, T. Andrew Smith, Daniel A. Patten, George A. Bryan, John R. Platt, Israel Holmes, William A. Warner, Seth Smith, Benjamin B. Thurston, Edward Harland, George Pratt, William W. Smith, Joseph N. Adams, John D. Watrous, Paul Couch, William H. Potter, Robert Palmer, David Geer, Daniel Bailey, Israel Allyn, Henry S. Lord, John F. Laplace, Willet R. Wood, Alfred Clarke, Roger G. Avery, Gurdon F. Allyn, David D. Mallory, Benjamin B. Hewitt, Amos S. Treat, Walker B. Bartram, Ebenezer S. Judd, Ira Scofield, Charles Judson, Francis L. Aiken, Israel M. Bullock, William H. Hill, Aaron H. Davis, William O. Seymour, Phineas S. Jacobs, Alfred Hoyt, Lewis W. Burritt, Hiram St. John, William Woodbridge, Joseph E. Marcy, George R. Hammond, Edwin H. Bugbee, Charles Burton, Isaac K. Cutler, Lucius Fits, John W. Clapp, Hezekiah Babbitt, Henry H. Cary, James Pike, Eden Davis, Franklin H. Converse, Albert Campbell, Lewis Burlingham, Charles Larabee, Ezra Dean, William H. Church, Norman A. Wilson, Lyman Gridley, Seth K. Priest, Frederic Merrill, William W. Welch, William E. Phelps, Edward Dailey, Charles Hotchkiss, Edward B. Birge, Augustine T. Peck, Charles A. Warren, John T. Rockwell, Charles J. York, Stephen A. Loper, Martin L. Roberts, George Jones, James L. Davis, Henry Tucker, Samuel M. Comstock, Phineas M. Augur, Samuel H. Lord, Daniel Strong, Oliver C. Carter, Gilbert F. Buckingham, Edwin T. Kirkland, George H. Kingsbury, C. B. Pomeroy, Henry W. Mason, Isaac Mason, Guy P. Collins, John M. Way, George B. Armstrong, Meenelly H. Hanks. Elijah Cutter, R. W. Andrews, J. R. Washburn, George D. Colburn, Chauncey Paul, A. Park Hammond, Hezekiah Eldridge, William Shaffer —125.

NAYS—Messrs. *Elisha Johnson, Norman Smith, William J. Gabb, Edward B. Dunbar, George J. Hinman, Henry A. Case, Benjamin Taylor, William M. Bates, Flavel C. Newton, Joseph Thompson, Roland O. Buell, William C. Case, Horace Belden, Roswell A. Neal, Noah H. Byington, Francis Jones, Samuel W. Goodrich, Alva Fenton, Alexander Clapp, Timothy C. Coogan, Samuel L. Bronson, Michael Williams, Asa C. Woodward, William D. Hendrick, Burritt Bradley, Mark Bishop, Gilbert S. Benham, Selah Strong, James Sweet, John A. Peck, Egbert L. Warner, Philo Holbrook, John C. Wooster, Hezekiah Hall, John Roach, Amos S. Blake, Isaac Hough, Enoch L. Beckwith, Thomas H. C. Kingsbury, Sanford Bromley, Robert F. Chapman, Daniel S. Guile, Prentice Avery, Geo. D. Loveland, Savilion Chapman, David H. Meekes, Edwin Wheeler, Cyrus Sherwood, Bern L. Budd, Jonathan A. Close, Jno. G. Wellstood, Eli D. Beardsley, Hinman Knapp, Philo H. Skidmore, Cyrus F. Fairchild, Asa Smith, Harvey K. Smith, Jarvis H. Wanzer, Sherman French, 2d, Matthew Buckley, James Smibert, Joseph Phillips, William R. James, Henry A. Kimball, Lyman N. Appley, George C. Martin, Josiah G. Beckwith, John B. Hopkins, Arbert E. Merrill, Calvin Aldrich, Marshall E. Beecher, Austin H. Gillett, Lorenzo H. Hakes, William G. Kinney, John S. Wheeler, William H. Harrison, Mija A. Nickerson, Fred. A. Lucas, Enos B. Pratt, Sidney Peck, Isaac B. Bristol, Albert S. Hill, James A. Root, Elliott Beardsley, Pliney S. Barton, Erastus D. Goodwin, Edgar J. Reed, David L. Smith, John B. Newton, Henry S. Wheaton, Robert Bacon, Edwin Scovill, Hezekiah Scovil,* JAMES C. WALKLEY,* *Charles Kirby, Huntington Southmayd, Charles E. Brownell, Edwin A. Emmons, Randolph P. Stevens, Charles D. Kelsey, John S. Topliff, Thos. J. White, Samuel A. Collins, Thompson Strickland*—105.

NOT VOTING—Addison O. Mills, Jeremiah H. Bartholomew, James Baldwin, Fred. A. Mallory, Edwin Roberts, James M. Kibbe—6.

Delaware

[The Senate voted down the resolution to adopt amendment by a strict party vote, the particulars of which were not received in time for publication.]

Florida.

SENATE, *June* 14, 1869.

YEAS—Messrs. Bradwell, Cruse, Hillyer, Katzenberg, Krimminger, Meacham, Pearce, Purman, Smith, Underwood, Vaughan, Walls, Wentworth —13.

NAYS—Messrs. *Atkins, Crawford, Ginn, Henderson, Kendrick, Moragne, McCaskill, Weeks*—8.

HOUSE, *June* 11, 1869.

YEAS—Mr. Speaker, Messrs. Butler, Bogue, Black, Cox, Cruce, DeLaney, Erwin, Fortune, Graham, Harman, Harris, Hill, Hodges, Keene, Lee, Mills, Moore of Columbia, Pons, Powell, Robinson, Scott, Simpson, Thompson, Walker, Wells—26.

†NAYS—Messrs. *Bostick, Bradwell, Cheshire, Forward, McKinnon, Moore* of Hillsborough, *Oliver, Pittman, Raney, Steward, Stone, Urquhart, Watson*—13.

Georgia.

‡SENATE, *March* 18, 1869.

YEAS—Messrs. Joseph Adkins, B. F. Bruton, *J. J. Collier*, William Griffin, McW. Hungerford, W. F. Jordan, W. W. Merrill, *B. R. McCutchen, R. T. Nesbit, M. C. Smith, C. J. Wellborn, F. O. Welch, W. T. Winn*—13.

* Independent Republican.

† June 12—Mr. Filer, of Monroe, sent the following communication to the Speaker:

"Having unintentionally been absent from the Assembly when the vote was taken yesterday on the joint resolution ratifying the XVth amendment of the Constitution of the United States, I respectfully ask that this communication be placed upon the Journal, that my disapprobation of the measure and desire to vote against it may be publicly known and placed on record. This is asked in justice to myself and my constituency."

The request was granted.

‡ March 10, a motion to lay joint resolution to ratify proposed XVth amendment to the Constitution on the table was lost by yeas 13, nays 16; March 12, the joint resolution was adopted by yeas 21, nays 16; March 13, a motion to reconsider prevailed, by yeas 19, nays 14; March 17, the resolution was indefinitely postponed, by yeas 18, nays 17—the chair giving the casting vote. March 18, this vote was reconsidered, by yeas 17, nays 14; but a direct vote upon adoption of the amendment resulted in yeas 13, nays 16, as above.

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NAYS—Messrs. *W. J. Anderson*, W. F. Bowers, *J. T. Burns*, *M. A. Candler*, J. M. Colman, *J. C. Fain*, J. Griffin, John Harris, *B. B. Hinton*, *R. E. Lester*, *W. T. McArthur*, *C. R. Moore*, *A. D. Nunally*, Josiah Sherman, W. C. Smith, T. J. Speer—16.

*HOUSE OF REPRESENTATIVES, *March* 16, 1869.

YEAS—Messrs. *W. D. Anderson*, Benjamin Ayer, Edwin Belcher, Marion Bethune, *P. H. Brasell*, *T. F. Brewster*, *G. S. Carpenter*, W. C. Carson, P. H. Chambers, *W. H. Clarke*, *Clower*, *A. E. Cloud*, *James Cunningham*, S. A. Darnell, Madison Davis, *R. A. Donaldson*, *J. T. Ellis*, *W. S. Erwin*, J. R. Evans, *F. M. Ford*, *A. M. George*, *N. N. Gober*, *W. B. Gray*, *W. W. Grieger*, *J. E. Gullatt*, *R. B. Hall*, *W. D. Hamilton*, J. F. Harden, *G. R. Harper*, *J. N. Harris*, Heard, W. F. Holden, *G. M. Hooks*, *Darling Johnson*, *H. C. Kellogg*, *C. H. Kytle*, W. A. Lane, Aug. H. Lee, *John Long*, *J. J. McArthur*, J. A. Madden, *J. A. Maxwell*, *J. C. Nesbit*, J. W. O'Neal, C. K. Osgood, *R. M. Parks*, *J. B. Parke*, Joseph L. Perkins, *W. P. Price*, *M. Rawles*, *James M. Rouse*, *G. W. Rumph*, *Pierce Sewell*, *M. Shackelford*, *J. E. Shumate*, *J. A. Smith*, *J. R. Smith*, *Smith*, S. L. Strickland, *E. M. Taliaferro*, W. W. Watkins, *Hiram Williams*, W. S. Zellers, B. H. Zelner—64.

NAYS—Messrs. *M. R. Ballanger*, *Richard Bradford*, *W. G. Brown*, *Wm. M. Butt*, *J. M. Burtz*, *C. C. Cleghorn*, *J. A. Cobb*, *J. M. Crawford*, *John C. Drake*, *H. R. Felder*, *McK. Fincannon*, James Fitzpatrick, *R. W. Flournoy*, *A. S. Fowler*, *David Goff*, *Thomas W. Grimes*, *T. M. Harkness*, *James A. Harrison*, *W. B. Hill*, Virgil Hillyer, *W. L. Hitchcock*, *G. M. Hook*, *Haywood Hughes*, *C. C. Humber*, *J. R. Kimbrough*, *J. J. Kelley*, *Samuel McComb*, *W. T. McCullough*, Platte Madison, *J. W. Matthews*, *J. W. Meadows*, *Henry Morgan*, *Lewis Nash*, *J. M. Nunn*, *S. E. Pearson*, *J. H. Penland*, *F. L. Pepper*, *N. J. Perkins*, *R. W. Phillips*, *G. S. Rosser*, *J. R. Saussey*, *F. M. Scroggins*, *Dunlap Scott*, *V. P. Sisson*, *J. B. Sorrell*, *W. M. Tumlin*, *R. A. Turnipseed*, *L. H. Walthal*, *L. C. A. Warren*, *Ware*, *Frank Wilcher*, *Wilcox*, *J. C. Wilson*—53.

Illinois.

SENATE, *May*, 1869.

YEAS—Messrs. John H. Addams, Thomas A. Boyd, Andrew Crowford, John C. Dore, William C. Flagg, Greenbury L. Fort, Allen C. Fuller, Isaac McManus, John McNulta, Dan. W. Munn, A. B. Nicholson, William Patten, Daniel J. Pinckney, Henry Snapp, J. W. Strevell, John L. Tincker, John P. Van Dorston, Jasper D. Ward—18.

NAYS—Messrs. *S. K. Casey*, *S. R. Chittenden*, *James M. Epler*, *Edwin H. Harlan*, *William Sheppard*, *Joseph J. Turney*, *John M. Woodson*—7.

*March 11, a joint resolution to ratify the amendment was adopted by 67 yeas to 60 nays, three other members protesting that if the proposed amendment does not confer upon the colored man the right to hold office, then they vote "aye," otherwise "no." March 12, this vote was reconsidered by 60 yeas to 45 nays. Subsequently, March 16, a substitute ratifying the amendment was offered and adopted by the above vote.

HOUSE OF REPRESENTATIVES, *March* 5, 1869.

YEAS—Messrs. Joseph M. Bailey, L. L. Bond, Alexander W. Bothwell, Thomas H. Burgess, James E. Callaway, Samuel H. Challis, Henry C. Child, Philip Collins, Ansel B. Cook, John Cook, Franklin Corwin, Irus Coy, Peter W. Deitz, James Dinsmoor, Silas H. Elliott, David M. Findley, Calvin H. Frew, W. Selden Gale, George Gaylord, George Gundlach, Philip K. Hanna, Joel W. Hopkins, Humphrey Horrabin, Daniel Kerr, Alonzo Kinyon, J. C. Knickerbocker, Iver Lawson, Charles W. Marsh, John M. McCutcheon, James R. Miller, William B. Miller, Francis Munson, Adam Nase, George W. Parker, James M. Perry, William E. Phelps, John Porter, N. N. Ravlin, Chas. G. Reed, J. S. Reynolds, Alexander Ross, John W. Scroggs, Hiram F. Sickles, William M. Smith, Wilson M. Stanley, William Strawn, Ephraim Sumner, Jacob Swigart, H. H. Talbott, E. S. Taylor, Bradford F. Thompson, L. D. Whiting, Samuel Wiley, Jonathan C. Willis, Ogden B. Youngs—55.

NAYS—Messrs. *Silas Beason*, *Andrew J. D. Bradshaw*, *Lewis Brookhart*, *Beatty F. Burke*, *Charles Burnett*, *Newton R. Casey*, *Joseph Cooper*, Edward L. Denison, *James E. Downing*, *John Ewing*, *Thomas B. Fuller*, *E. M. Gilmore*, *John Halley*, *Thomas Jasper*, *John Landrigan*, *Edward Lanning*, *Thomas E. Merritt*, *Abraham Mittower*, *D. H. Morgan*, *Timothy M. Morse*, *Smith M. Palmer*, *C. C. M. V. B. Paine*, *James G. Phillips*, *John W. Ross*, *Leonard Rush*, *S. R. Saltonstall*, *Charles Voris*, *David M. Woodson*—28.

NOT VOTING—*Henry Dresser*, Henry Green—2.

Indiana.

SENATE.

YEAS—Messrs. Alanson Andrews, F. G. Armstrong, J. Rufus Beardsley, Fabius Josephus Bellamy, A. S. Case, John Carew, Firmin Church, John R. Cravens, James Elliott, Sternes Fisher, E. W. Fosdick, Isaac P. Gray, John Green, John V. Hadley, Thomas M. Hamilton, L. W. Hess, A. Y. Hooper, David F. Johnson, Isaac Kinley, Thomas N. Rice, John Reynolds, Milton S. Robinson, William J. Robinson, Harvey D. Scott, John A. Stein, Anson Wolcott, Samuel F. Wood—27.

PRESENT BUT NOT VOTING—*James Bradley*, *William W. Carson*, *George W. Denbo*, *Thomas Gifford*, *E. C. Henderson*, *Archibald Johnston*, *Charles B. Laselle*, *Thomas G. Lee*, *David Morgan*, *William F. Sherrod*, *Wilson Smith*—11.

ABSENT—Messrs. *Oehmig Bird*, Sims A. Calley, *James M. Hanna*, *George V. Howk*, *Robert Huey*, *Elijah Huffman*, James Hughes, *J. M. Humphreys*, *William H. Montgomery*, *William Taggart*, *William S. Turner*—11.

*HOUSE OF REPRESENTATIVES, *May* 14, 1869.

YEAS—Messrs. George A. Buskirk, (Speaker,)

*On this day a message from the governor announced the resignations of the following members of the House:

James F. Mock, *C. R. Cory*, *W. D. Hutchings*, *J. R. Bobo*, *D. Montgomery*, *S. A. Shoaff*, *B. S. Fuller*, *J. G. Johnson*, *Isaac Odell*, *T. H. Palmer*, *J. C. McGregor*, *C. R. McBride*, *L. Carr*, *S. Wile*, *J. D. Williams*, *W. E. Dittemore*, *D. W. Cunningham*, *R. Logan*, *J. Addison*, *L. Calvert*, *D. H. Long*, *W. K. Admire*, *J. C. Lawler*, *W. Tebbs*, *J. D. Cox*, *J. Hyatt*, *S. J. Barritt*, *J. L. Bates*, *D. McDonald*, *A. Zollars*, *N. D.*

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Reuben Baker, John P. Barnett, Samuel Beatty, Fielding Beeler, Wm. C. Bowen, Robert Breckenridge, George W. Chapman, George F. Chittenden, Stephen Davidson, Henry G. Davis, Moses F. Dunn, Reuben W. Fairchild, Timothy Field, E. C. Field, Allen Furnas, Oliver P. Gilham, A. E. Gordon, Samuel Greene, Colbarth Hall, E. W. Hamilton, E. S. Higbee, John Higgins, Austin Hutson, Amasa Johnson, James T. Johnson, Samuel V. Jump, Robert T. Kercheval, Jonathan Lamborn, Thomas Mason, John Millekan, Robert Miller, William Y. Monroe, Milton A. Osborn, John Overmyer, Gilbert A. Pierce, Isaac N. Pierce, John Ratcliff, James Ruddell, Stephen Sabin, William Skidmore, Allen W. Smith, A. P. Stanton, Richard Stephenson, Stephen H. Stewart, David M. Stewart, Freeman Tabor, John J. Underwood, J. T. Vardeman, T. J. Vater, J. A. Wildman, Isaac Williams, Benjamin F. Williams, William Wilson—54.

PRESENT BUT NOT VOTING—Messrs. *John R. Coffroth, J. S. Davis,* and James V. Mitchell—3.

Iowa.

[Not yet voted.]

Kansas.

SENATE, *February* 27, 1869.

YEAS—Abner Arrowsmith, J. C. Bailey, J. C. Broadhead, A. A. Carnahan, J. C. Carpenter, S. A. Cobb, W. H. Fitzgerald, W. H. Grimes, O. J. Grover, E. J. Jenkins, William Larimer, O. E. Learnard, James R. Mead, M. M. Murdock, John McKee, E. S. Niccolls, J. H. Prescott, Martin Schmitt, W. H. Smallwood, S. J. H. Snyder, A. G. Speer, E. Tucker, M. V. Voss, H. H. Williams, Levi Woodward—25.

NAYS—0.

ABSENT AND NOT VOTING—0.

HOUSE OF REPRESENTATIVES, *February* 27, 1869.

YEAS—Messrs. N. J. Allen, L. D. Bailey, P. Y. Baker, James Blood, M. B. Bowers, F. C. Bowles, Aaron Brundage, John Buterbaugh, Alexander E. Case, H. W. Cook, E. B. Crocker, William Crosby, I. N. Dalrymple, Rufus Darby, C. Drake, A. J. Evans, F. Gilluly, Charles Gregg, Joel Grover, John Guthrie, W. M. Hamm, H. C. Hawkins, D. Helphrey, Joseph Howell, J. M. Hunter, M. B. Hupp, Samuel Hymer, George E. Irwin, Z. Jackson, J. L. Jones, J. B. Johnson, D. B. Johnson, B. F. Johnson, Josiah Kellogg, Cyrus Kilgore, W. W. Lambert, Samuel Lappin, J. S. Larimer, Joseph Logan, J. H. Madden, Joel Maltby, J. B. Moore, John McClenahan, C. C. McDowell, J. A. McGinnis, H. W. McNay, W. F. Osborne, A. C. Pierce, J. Q. Porter, J. T. Rankin, M. H. Ristine, D. D. Roberts, L. Roberts, A. G. Seaman, E. Secrest, William Simpson, W. H. Smith, J. D. Snoddy, R. E. Stevenson, Jacob Stotler, J. S. Taylor, Perry Tice, W. F. Travis, Wm. J. Uhler, James Walmsley, Amos Walton, Saml. R. Weed, R. P. West, David Whitaker, J. L. Williams, T. R. Wilson, George W. Wood, M. S. Adams, (Speaker)—73.

NAYS—Messrs. *Thomas Feeny, R. V. Flora, N. Humber, R. E. Palmer, P. H. Tiernan, Geo. W. Thompson, John F. Wright*—7.

NOT VOTING—Messrs. T. H. Butler, E. E. Coffin, Oliver Davis, S. K. Hungerford, G. B. Inge, J. S. Martin, A. J. Mowry, McGrath, McIntosh, R. Smith—10.

Kentucky.*

SENATE, *March* 12, 1869.

YEAS—R. T. Baker, Robert Boyd, John B. Bruner, O. P. Johnson, Henry C. Lilly, W. J. Worthington—6.

NAYS—Mr. Speaker, (*Wm. Johnson,*) *Joseph M. Alexander, F. M. Allison, A. K. Bradley, Jno. G. Carlisle, Jos. H. Chandler, Jno. B. Clarke, Lyttleton Cooke, A. D. Crosby, Wm. A. Dudley, A. H. Field, Joseph Gardner, Evan M. Garriott, P. H. Leslie, W. Lindsay, Isaac T. Martin, W. H. Payne, I. A. Spalding, E. D. Standeford, Philip Swigert, Harrison Thompson, Oscar Turner, A. C. Vallandigham, W. L. Vories, Benj. J. Webb, I. C. Winfrey, C. T. Worthington*—27.

HOUSE OF REPRESENTATIVES, *March* 11, 1869.

YEAS—Robert Bird, Alexander Bruce, Dempsey King, Zachariah Morgan, Hiram S. Powell—5.

NAYS—Mr. Speaker, (*John T. Bunch,*) *Peter Abell, John J. Allnutt, George W. Anderson,* Robert C. Beauchamp, *Higgason G. Boone, Orlando C. Bowles, Jeremiah W. Bozarth, Jesse D. Bright,* Richard J. Browne, *William W. Bush, B. F. Camp, Patrick Campion, George M. Caywood, A. T. Chenault, Thomas T. Cogar, John N. Conkwright, Thomas H. Corbett, Robert T. Davis, John Deaton, Francis U. Dodds, Michael A. Downing, O. L. Drake, George W. Drye, Thomas J. Eades, George R. Fearons,* Manlius T. Flippin, *Hart Gibson, Robert T. Glass, Wm. O. Hall, George Hamilton, Mortimer D. Hay,* JAMES R. HINDMAN,† *Smith M. Hobbs, Basil Holland, Richard C. Hudson, Thomas L. Jefferson, Alfred M. Jones, Francis Justice, Alfred Kendall, Gabriel A. Lackey, J. Fry Lawrence, John W. Leathers, Charles H. Lee, Wm. Lusby, Wm. J. Lusk, Beriah Magoffin, Samuel I. M. Major, Andrew J. Markley, Alexander L. Martin, Mortimer D. Martin, Jas. M. McFerran, W. Estill McHenry, James A. McKenzie, Guy S. Miles, John Wesley Mosely, John Allen Murray, John W. Ogilvie,* William N. Owens, *Thompson S. Parks, Henry L. Perry, George G. Perkins, Julian N. Phelps, Elijah S. Phister, Wm. Preston, Wm. B. Read, John D. Russell, Culvin Sanders, Robert Simmons, Fenton Sims, Alexander B. Smith, Richard M. Spalding, Barton W. Stone, David P. Stout, Hezekiah K. Thomas, James White, Robert K.

Miles, T. W. Lemman, W. G. Neff, J. C. Shoemaker, M. T. Carnahan, P. M. Zenor, J. M. Sleeth, J. S. Cotton, J. F. Welborn, L. D. Britton, B. D. Miner—41.

After the message, a vote was taken upon the adoption of the proposed XVth amendment, with above result. The Speaker ruled, that for ordinary legislation the State constitution prescribes that two-thirds of the House (or 67 members present and answering to their names) constitutes a quorum, but it does not define what number of members, more than a simple majority of the legislature, shall be sufficient to act upon a proposed amendment to the United States Constitution. He therefore declared the resolution adopted.

* The vote actually taken was on a joint resolution to *reject* the amendment; but I have made the record to correspond in form with the other States, in which the question was on ratifying.

† Conservative.

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White, James A. Wilson, Samuel M. Wrather, J. Hall Yowell—80.

Louisiana.

SENATE, *February* 27, 1869.

YEAS—Messrs. C. C. Antoine, H. J. Campbell, F. V. Coupland, L. B. Jenks, G. Y. Kelso, J. Lynch, J. J. Monette, C. C. Packard, P. B. S. Pinchback, R. Poindexter, C. Pollard, J. Randall, J. Ray, M. F. Smith, S. M. Todd, C. Wilcox, J. R. Williams, J. Wittgenstein—18.

NAYS—Messrs. *G. H. Braughn*, J. C. Egan, W. L. Thompson—3.

HOUSE OF REPRESENTATIVES, *March* 1, 1869.

YEAS—Messrs. Charles W. Lowell, (*Speaker*,) Isaac A. Abbott, Frank Alexander, F. C. Antoine, C. J. Adolphe, Octave Belot, O. H. Brewster, Dennis Burrell, B. Collins, W. S. Calhoun, M. Carr, Sam E. Cuny, P. G. Deslonde, E. W. Dewees, P. L. Dufresne, A. J. Demarest, N. Douglas, T. B. W. Evans, A. W. Faulkner, P. Guigonet, John Gair, J. Garstkamp. Chas. Gray, Paul Guidry, J. A. Hall, J. T. Hanlon, H. Heidenhain, G. H. Hill, E. Honore, J. W. Hutchinson, R. H. Isabelle, R. Lange, V. M. Lange, E. LeBlanc, Chas. Le Roy, Milton Morris, J. H. McVean, Wm. Murrel, W. C. Melvin, F. Morey, R. J. Moran, James S. Mathews, John Page, M. Raymond, D. H. Reese, Henry L. Rey, Moses Sterrett, Robert J. Taylor, A. Tureaud, H. C. Tounoir, S. Umphreys, James J. Walsh, Geo. Washington, E. S. Wilson, David Young—55.

NAYS—Messrs. *L. P. Bryant, James R. Currell, Wm. Haskell, James McCullen, W. Pope Noble, C. B. Pratt, J. E. Rengstorff, P. H. Waters, Jacob Zoelly*—9.

NOT VOTING—Messrs. Leslie Barbee, W. W. Bennett, J. B Bergerson, F. Borge, J. A. Crawford, Jos. H. Degrange, Ulger Dupart, Charles A. Eager, J. B. Esnard, David C. Fouts, Peter Harper, W. M. Holland, J. M. Judice, Amos Kent, J. B. Landers, A. L. Lee, E. F. L'Haste, Harry Lott, Jacob Magee, Theophile Mahier, W. L. McMillen, Joseph Mansion, C. R. May, S. C. Mollere, John Pearce, William H. Pierce, S. Prejean, Willis Prescott, J. Simms, H. C. Slaton, Henderson Williams, William C. Williams, L. A. Wiltz, B. C. Wren, P. Jones Yorke, Nicholas Young—36.

Maine.

SENATE, *March* 11, 1869.

YEAS—Messrs. William W. Balster, John A. Buck, George Cary, T. H. Cushing, Reuel B. Fuller, Lorenzo Garcelon, Charles E. Gibbs, George Goodwin, Thomas R. Kingsbury, M. D. L. Lane, Thomas S. Lang, Stephen D. Lindsay, Manderville T. Ludden, Frederick G. Messer, Benjamin D. Metcalf, Jeremiah Mitchell, Jacob P. Morse, Benjamin B. Murray, jr., Sumner A. Patten, William B. Snell, John L. Stevens, F. Loring Talbot, Samuel Tyler, Luther H. Webb, Joseph H. West—25.

NAY—Mr. *Moses R. Mathews*—1.

HOUSE, *March* 11, 1869.

ADOPTED UNANIMOUSLY—The members present being: Charles B. Abbot, Nathaniel Averill, John W. Barker, *E. K. Bennett*, W. H. Bigelow, Francis Blackman, Granville Blake, E. P. Blaisdell, Hiram Bliss, jr., Uranus O. Brackett, Alden Bradford, Edmund Bragdon, jr., Henry Brawn, George E. Brickett, John R. Bridges, John A. Briggs, Jethro Brown, James M. Buzzell, *G. W. Caldwell*, E. A. Calderwood, *P. J. Carleton*, Hanson T. Carver, John S. Case, J. H. Chamberlain, Andrew C. Chandler, D. W. Chapman, F. A. Chase, George A. Clark, James M. Coffin, Cyrus Cole, Marshall Cram, *Joseph Crandon, jr.*, G. F. Danforth, *William Dickey, Abner Dinsmore*, William S. Dodge, William Dolbier, J. H. Drummond, (Speaker,) Edwin A. Duncan, Cyrus Dunn, James Dunning, Parker G. Eaton, *Robert Edes*, E. C Farrington, *J. A. Farrington*, A. B. Farwell, W. B. Ferguson, Levi H. Folsom, Francis H. Foss, Isaac Foster, Jacob F. Frederic, Washington Gilbert, D. T. Giveen, Isaac B. Goodwin, G. C. Goss, *A. Greely, Seward B. Gunnison, James R. Haley*, John S. P. Ham, *G. A. Hammond*, G. W. Hammond, Austin Harris, A. J. Hatch, *Joseph W. Holland, George S. Holman*, Caleb Holyoke, William Hopkins, *G. W. Howe*, Wales Hubbard, Aaron W. Huntress, William Irish, *Charles Junkins*, Eleazer Kelley, Ezra Kempton, I. G. Kimball, Thomas Knowlton, Francis B. Lane, Andrew Leighton, Jonathan Libby, William L. Longley, Tobias Lord, Leonard Lord, William W. Lucas, George C. Lynam, John G. Mayo, A. B. McCausland, Orrin McFadden, Mason J. Metcalf, Charles V. Minot, Charles J. Morris, S. M. Newhall, Stillman Noyes, jr., Lyndon Oak, G. S. Palmer, J. W. Palmer, George Parcher, Jere G. Patten, *David Patterson, Andrew M. Peables*, Henry O. Perry, *Oscar Pike*, Stanley A. Plummer, Daniel F. Potter, C. M. Powers, A. C. Pray, Joseph C. Purinton, Thomas B. Reed, Samuel A. Rendell, S. D. Richardson, William M. Rust, Edmund Russell, John Russell, D. W. Sawyer, Whitman Sawyer, Stillman W. Shaw, *Reuben Small*, Joseph O. Smith, Thaddeus S. Somes, Pliny B. Soule, Jas. M. Stone, *L. H. Storer*, Ira D. Sturgis, Judah D. Teague, *N. Thompson*, E. W. Thompson, J. P. Thwing, Philander Tolman, Abner Toothaker, *Eastman H. Tripp*, Charles Y. Tuell, *Ellery Turner*, Thomas E. Twitchell, *Alfred Watts*, Cyrus Waugh, E. W. Wedgewood, Andrew J. Weston, Charles R. Whidden, Daniel White, *Joshua Whitney*, Elijah Wyman.

Maryland.

[Not yet voted.]

Massachusetts.

SENATE, *March* 9, 1869.

YEAS—Messrs. Nathl. E. Atwood, Nathl. J. Holden, Joshua N. Marshall, George M. Rice, George O. Brastow, Estes Howe, George H. Monroe, H. H. Coolidge, Richmond Kingman, Daniel Needham, George S. Taylor, Samuel D. Crane, Lucius J. Knowles, Julius A. Palmer, Whiting Griswold, John H. Lockey, Richard Plumer, Gershom B. Weston, John B. Hathaway, Chas. R. McLean, Joseph G. Pollard, O. H. P. Smith, George M. Buttrick, George A. King, Edwin L. Morton, George H. Sweetser, J. Scott Todd, Edmund Dowse, Charles R. Ladd, Robert C. Pitman,

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Harrison Tweed, Charles A. Whirlock, Francis A. Hobart, Charles Marsh, Joseph G. Ray, Jonathan White—36.

NAYS—Messrs. *Benjamin Dean, Alonzo M. Giles*—2.

HOUSE OF REPRESENTATIVES, *March* 12, 1869.

YEAS—Messrs. William T. Adams, Alexander H. Allen, John A. P. Allen, William W. Amadon, Frank M. Ames, Isaac A. Anthony, John I. Baker, Life Baldwin, John Barlow, William E. Barnes, William Bartlett, Ezra Batcheller, Jacob Bates, Loring Bates, Marcus A. Bates, Alfred Belden, Francis W. Bird, Saml. G. Bowdlear, Charles Bradley, Samuel P. Breed, Ezra C. Brett, Benjamin A. Bridges, Jethro C. Brock, William G. Brooks, John Brown, Werden R. Brown, Ferdinand L. Burley, Alvah A. Burrage, Alfred A. Burrill, Rodney French, Josiah O. Friend, jr., Chauncey G. Fuller, Geo. L. Gibbs, Edwin Gilbert, Kimball C. Gleason, Abijah W. Goddard, Stephen D. Goddard, John B. Goodrich, Thomas H. Goodspeed, Levi S. Gould, Sam. H. Gould, Wesley A. Gove, Wm. T. Grammer, Calvin S. Greenwood, Charles H. Guild, Moses H. Hale, Lyman S. Hapgood, Rich. P. A. Harris, Abraham G. Hart, Edward H. Hartshorn, Andrew L. Haskell, Wm. H. Haskell, James A. Hervey, James Hewes, Chas. A. Hewins, Elmer Hewitt, Wm. Hichborn, Levi W. Hobart, Thorndike D. Hodges, Ambrous Hodgkins, Alvah Holway, James Horswell, Samuel Horton, Charles H. Hovey, Geo. F. Howland, James Humphrey, Theodore C. Hurd, Harvey Jewell, (Speaker,) Henri L. Johnson, Robert Johnson, Herbert C. Joyner, Shubael B. Kelley, William W. Kellogg, Thos. G. Kent. Moses Kimball, Dexter S. King, Enoch King, Daniel W. Knight, Jos. S. Knight, Oliver S. Butler, Solomon Carter, Albert Chamberlin, Linus M. Child, Wm. M. Child, Horace Choate, Le Baron B. Church, Joseph N. Clark, Asa Clement, Samuel Cloon, Aury G. Coes, Benjamin F. Cook, George P. Cox, Freeborn W. Cressy, James M. Cunliff, Robt. S. Daniels, Elnathan Davis, William W. Davis, Ebenezer Dawes, John Dean, Avery J. Denison, Benjamin Dupar, J. Franklin Dyer, Wm. I. Edwards, Thos. Ellis, Jacob Fisher, Charles A. Fiske, Wm. Fletcher, James B. Francis, Franklin C. Knox, Albert Langdon, Roger H. Leavitt, Manning Leonard, Nahum Leonard, jr., William Livermore, Caleb Lombard, Josiah Lord, jr., Marcus M. Luther, Charles N. Marsh, Wm. Melcher, Wm. R. Melden, Chas. H. Merriam, John M. Merrick, Moody Merrill, Wm. H. Merritt, Lansing Millis, Eben Mitchell, Elliott Montague, Lyman E. Moore, Asa P. Morse, Newton Morse, Edwin Mudge, Nathaniel C. Nash, Henry J. Nazro, Thomas L. Nelson, Daniel H. Newton, Jeremiah L. Newton, Geo. K. Nichols, John P. Ober, Weaver Osborn, Rufus S. Owen, Samuel S. Paine, John C. Peak, Joseph D. Peirce, Francis A. Perry, Avery Plumer, A. A. Plimpton, M. C. Phipps, Augustus Pratt, Joseph A. Priest, Asahel D. Puffer, Edgar H. Reed, Ezra Rice, James Ritchie, James H. Roberts, Ensign B. Rogers, Joseph N. Rolfe, Augustine K. Russell, George J. Sanger, Joseph L. Sargent, Samuel D. Sawin, Clark Sears, John N. Sherman, Rufus S. Slade, Edward Smith, Horace Smith, Iram Smith, John J. Smith, Martin L. Smith, Willis Smith, Welcome W. Sprague, Charles W. Soule, L. Miles Standish, Haynes K. Starkweather, Eliphalet Stone, Ruel F. Thayer, Justus Toner, S. K. Towle, Welcome H. Wales, Royal S. Warren, Thos. S. Waters, Henry White, D. Dwight Whitmore, Emerson Wight, Charles Wilcox, Salem Wilder, Alfred M. Williams, Warren Williams, William D. Witherell, George M. Woodward, D. T. Woodwell, Luther A. Wright, P. Ambrose Young—192.

NAYS—Messrs. *Rich. D. Blinn, Dennis Cawley, jr., Samuel Clark, Alanson Crittenden, Benjamin Franklin, Dennis J. Gorman, Hugh A. Madden, Murdock Matheson, Charles J. McIntyre, F. H. Morse, Thomas F. Plunkett, Thomas K. Plunkett, Caleb Rand, James Wilson, Orlow Wolcott*—15.

* NOT VOTING—33.

Michigan.

SENATE, 1869.

YEAS—Charles Andrews, John K. Boies, Evan J. Bonine, Henry C. Conkling, John C. Fitzgerald, Bela W. Jenks, John H. Jones, Ezra L. Koon, Charles Blunt Mills, Stephen Pearl, Peter R. L. Peirce, Delos Phillips, Abraham C. Prutyman, Hampton Rich, Elliott T. Slocum, Amos Smith, Thaddeus G. Smith, John H. Standish, George Thomas, Jerome W. Turner, P. Dean Walker, William B. Williams, (President, *pro tem.*,) Richard Winsor, Alfred B. Wood, Hiel Woodward—25.

NAYS—*William Adair, Lorenzo M. Mason, Edward G. Morton, Lyman Decatur Norris, William Willard, jr.*—5.

HOUSE OF REPRESENTATIVES, 1869.

YEAS—John Avery, Horace T. Barnaby, Benjamin L. Baxter, Isaac D. Beall, John E. Blake, Ezra Bostwick, Nathan S. Boynton, George, G. Briggs, Ellery A. Bronnell, Alexander Cameron, Benjamin Clark, Archer H. Crane, Daniel L. Crossman, James L. Curry, William R. Davis, Philo Doty, William R. Eck, Adam Elliott, George H. Fenner, Ceylon C. Fuller, Milo E. Gifford, Levi N. Goodrich, William W. Hartson, Henry H. Holt, Dexter Horton, Edmund W. Hunt, William H. Hurlbut, Benjamin W. Huston, jr., Loomis Hutchinson, John N. Ingersoll, Charles A. Jewell, Peter Lane, Enos T. Lovell, James W. Mandigo, Edward M. Mason, Henry McCowen, Norton L. Miller, Charles R. Millington, William H. C. Mitchell, Lyman Murray, Orlando Newman, Henry A. Norton, John M. Osborn, Emory M. Plimpton, Uzziel Putnam, jr., Almond B. Riford, Harvey B. Rowlson, George P. Sanford, Brackley Shaw, jr., Charles Shier, Aaron Sickels, Thomas J. Slayton, Robert B. Smith, Jos. W. Snell, Abiel S. Stannard, Frank B. Stockbridge, George W. Swift, Almon A.

* Under an order of the House, permitting absentees to record how they would have voted had they been present, the following were recorded:

YEAS—Messrs. George H. Barrett, Wm. W. Nichols, S. H. Walker, Henry Chase, O. S. Brown, E. Foster Bailey, Lewis S. Judd, Addison G. Fay, Henry Blake, Jos. A. Stranger, Francis A. Nye, Samuel B. Simmons, Stephen M. Crosby, S. S. Willson, Charles P. Lyon, Shepard Thayer, Tilly Haynes, Frank M. Ames, W. A. Russell, Edward Stowell—20.

NAY—*Patrick A. Collins.*

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Thompson, George Vowles, John Wagner, John Walker, Jacob Walton, Edgar B. Ward, Luther Westover, Hubert G. Williams, James A. Williams, Jonathan J. Woodman, (Speaker,) Samuel W. Yawkey—68.

NAYS—*Robert V. Briggs, Orman Clark, Bela Cogshall, Jerome B. Eaton, Thomas W. Harris, John H. Hubbard, Frederick G. Kendrick, James Kingsley, Peter Klein, James B. Lee, John Q. McKernan, Cyrus Miles, William Purcell, Claude N. Riopelle, James W. Romeyn, James Stewart, Newton Shelton, Peter Ternes, Joseph Weier, Jacob A. T. Wendall, Darwin O. White, Elliott R. Wilcox, William D. Williams, David A. Woodard*—24.

Minnesota.

[Not yet voted—the legislature declining to act upon a telegram, and adjourning prior to receipt of an official copy of proposed amendment.]

Mississippi.

[Not yet voted.]

Missouri.

SENATE, *March* 1, 1869.

YEAS—Messrs. Wells H. Blodgett, George W. Boardman, C. S. Brown of Shelby, Theodore Bruere, John S. Corender, John B. Clark, sr., David R. Conrad, Lewellyn Davis, Isam B. Dodson, Ellis G. Evans, John M. Filler, Louis Gottschalk, Minor T. Graham, Thos. Harbine, Samuel W. Headlee, George H. Rea, Stephen Ridgley, Wm. B. Rogers, M. G. Roseberry, William A. Shelton, James H. Todd, David A. Waters, Eugene Williams—23.

NAYS—Messrs. *James H. Birch, jr., Joseph Brown* of St. Louis, *Thomas M. Carroll, Thomas Essex, Thomas J. O. Morrison, John H. Morse, James S. Rollins, Thomas B. Reed, Henry J. Spannhorst*—9.

NOT VOTING—George W. Elwell, John C. Human.

HOUSE OF REPRESENTATIVES, *March* 1, 1869.

YEAS—Messrs. John C. Orrick, (Speaker,) J. J. Akard, Ben Alsup, T. W. Allred, A. Jackson Baker, T. S. Benefiel, Tarlton Brewster, W. P. Browning, Henry Bruihl, C. C. Byrne, Daniel Clark, M. S. Courtright, D. S. Crumb, W. H. H. Cundiff, E. S. Davis, R. B. Denny, R. T. Dibble, J. H. Dolle, D. S. Donegan, W. B. Elliot, A. M. Ellison, Frank Eno, J. W. Enoch, W. J. Ferguson, E. P. Ferrell, J. B. Freeman, A. L. Gibbs, J. H. Glenn, Richard Gladney, A. Hackman, J. B. Harper, Samuel Hayes, J. T. K. Hayward, A. F. Heely, N. P. Howe, Anthony Iltner, Jesu Jennings, R. F. Johnson, T. H. Jones of Laclede, W. A. Jones of Nodaway, R. D. Keeney, G. R. King, Oscar Kirkham, N. B. Klaine, M. L. Laughlin, Wm. Lawson, F. T. Ledergerber, F. E. Lombar, J. M. Magner, M. J. Manville, J. C. McGinnis, J. F. McKernan, W. H. McLane, R S. Moore, H. G. Mullings, A. Munch, W. N. Nalle, T. D. Neal, W. H. Norris, C. R. Peck, Anthony Perry, J. L. Powell, J. M. Quigley, Constance Riek, J. P. Robertson, L. A. Rountree, F. T. Russell, Louis Schulenberg, W. L. Snidow, James Southard, T. J. Stauber, E. Stinson, L. A. Thompson, J. S. Todd, J. L. Vickers, G. H. Walser, *H. Winchester*, Jacob Yankee, J. M. Young—79.

NAYS—Messrs. *J. F. Adams, Joseph Bogy, W. H. Bowles, A. F. Brown* of Callaway, *L. A. Brown* of Howard, *A. Burge, J. G. Burton, Thomas Byrns, D. L. Caldwell, R. A. Campbell, Tyree Harris, Garland Hurt, William Key, F. L. Marchand, Andrew McElvain, J. M. McMichael, C. J. Miller, A. W. Mitchell* of St. Louis, *J. P. Murphy, A. R. Phillips; Lucius Salisbury, J. Salyer, E. C. Sebastian, M. Sides, G. D. Sloan, C. R. Smythe, J. H. Terry, Robert Waide, T. F. Warner*, C. Weinrich—30.

Nebraska

[Not yet voted.]

Nevada.

SENATE, *March* 1, 1869.

YEAS—Messrs. David H. Brown, T. W. Abraham, T. D. Edwards, C. H. Eastman, O. H. Grey, Wm. N. Hall, James W. Haynes, M. S. Hurd, David L. Hastings, Benjamin S. Mason, Thomas B. Shamp, C. C. Stevenson, Frederick A. Tritle, D. W. Welty—14.

NAYS—Messrs. *M. S. Bonnifield, Eugene B. Hazard*, Jacob J. Linn, *Robert Mullan, Wm. G. Monroe, Samuel Wilson*—6.

HOUSE OF REPRESENTATIVES, *March* 1, 1869.

YEAS—Messrs. D. O. Adkison, (Speaker,) J. K. Barney, Wilmer Brown, N. E. Bunker, J. S. Burson, J. A. Burlingame, William H. Corbett, H. F. Dangberg, S. J. Davis, William Doolin, J. S. Ford, W. D. Gray, J. M. Handford, John Hanson, C. J. Hillyer, C. D. King, George J. Lammon, J. L. Richardson, C. P. Shakespere, E. R. Schimmin, John Welch, J. M. Woodworth, S. C. Wright—23.

NAYS—Messrs. Anderson, John Bowman, *E. Clark*, A. C. Cleveland, G. D. Coburn, J. S. Mayhugh, *G. F. Mills*, R. J. Moody, S. A. Moulton, A. K. Potter, F. W. Randall, T. W. Rule, R. H. Scott, J. W. Small, T. J. Tennant, *A. B. Waller* 16.

New Hampshire.

* SENATE, 1869.

HOUSE OF REPRESENTATIVES, 1869.

YEAS—Messrs. William C. Noyes, Jacob Lufkin, John W. Dudley, Rufus W. Moore, Daniel Clifford, Harvey P. Hood, George Moore, 2d., Sebastian A. Brown, Andrew J. Hoyt, Ebenezer Folsom, George Beebe, John D. Ordway, Dewitt C. Durgin, Emery Batchelder, Andrew W. Mack, Matthew Holmes, Joshua M. Bickford, Charles Wingate, William H. Y. Hackett, Edward D. Coffin, Daniel J. Vaughn, Isaiah Wilson, Wm. P. Jones, Charles Robinson, William H. Henderson, Frank W. Miller, John W. Wheeler, Joel C. Carey, George Marston, Patrick Quinn, Leonard Lang, Rei Hills, John S. Buzzell, Jos. Daniels, William T. Wentworth, Hiram F. Snow, Alvah Moulton, Samuel M. Wheeler, George Wadleigh, Oliver Wyatt, Charles H. Sawyer, Jonas H. Colony, John Hill, George Lyman,

* Adopted the amendment, but returns not received in time for insertion.

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Samuel G. Chamberlain, Larkin Harrington, John Crockett, Silas Hussey, jr., Jos. N. Hayes, John Drew, Daniel Chadbourne, George Stevens, Daniel J. Holmes, Charles F. Montgomery, Chas. Hayes, Walter G. C. Emerson, Rufus G. Morrill, Enoch Franders, Stephen B. Cole, Rufus E. Gale, Geo. W. Sanborn, Sam'l. Emerson, Aaron Clarke, Wm. Blake, jr., Mark Nickerson, Wm. M. Weed, Enoch Q. Fellows, Jas. M. Pease, Sam'l. W. Roberts, Blake Folsom, Nehemiah Butler, Wm. H. Allen, Henry Farnum, John West, Benjamin E. Badger, Augustine C. Pierce, Ephraim W. Woodward, Jos. W. Prescott, Calvin C. Webster, Geo. F. Whittrege, John B. Ireland, Arthur S. Nesmith, George W. Rice, Moses Favor, Benjamin J. Gile, Thomas B. Jones, Reuben E. French, Nahum T. Greenwood, Nathaniel G. Foote, Chas. E. Perkins, Cyrus French, David A. Macurdy, William A. Mack, William N. Tuttle, James H. Hall, Samuel D. Downes, John Greer, Lucien D. Hunkins, Avery M. Clark, Chas. B. Richardson, Daniel M. Greeley, Luther Cram, Joseph L. Stephens, Nathan P. Kidder, Timothy W. Challis, Geo. S. Andrews, Jas. O. Adams, Albert H. Daniels, William Flanders, Herman Foster, Benjamin Currier, Samuel D. Lord, James P. Eaton, Robert Hall, Robert M. Shirley, Elisha B. Barrett, Benj. Ela, Samuel G. Dearborn, Bainbridge Wadleigh, Archibald H. Dunlap, George A. Ramsdell, Caleb Burbank, Amos Webster, Chas. Holman, William A. Preston, Riley B. Hatch, Chas. Wilder, Stephen H. Bacon, Isaiah Wheeler, Charles O. Ballou, Alonzo H. Wood, Aaron Smith, John N. Richardson, George S. Wilder, Frederick W. Bailey, John Humphrey, Solon S. Wilkinson, Robert Wilson, Charles Bridgman, Solon A. Carter, Wm. French, Jairus Collins, Geo. A. Whitney, Alba C. Davis, Charles Mason, William H. Porter, Augustus Hodgkins, Henry Abbott, Edward Alexander, Chas. H. Whitney, Chapin K. Brooks, Nathan W. Howard, Franklin W. Putnam, William Ellis, Hiram Webb, Edward L. Goddard, George N. Farwell, Joseph B. Comings, Albina Hall, William H. Eastman, Martin Bascom, Benjamin F. Sawyer, John B. Cooper, Levi F. Hill, Thos. N. Hughes, Abner Fowler, Sam'l. K. Mason, Erastus Dole, Converse G. Morgan, Herbert Bailey, Jacob S. Perley, Jas. S. Adams, Harlow S. Nash, Joseph W. Cleveland, Jesse C. Sturtevant, Hiram Noyes, Horace B. Savage, Isaac D. Miner, Theodore M. Franklin, Frank Paddleford, Reuben Batchelder, Henry H. Palmer, Willard Spencer, Henry O. Kent, Ossian Ray, Charles E. Philbrook, George W. Libbey—187.

NAYS—Messrs. *John W. Cate, Jesse W. Sargent, Joseph R. Garrish, George W. Sanborn, Jas. L. Rundlett, Stephen G. Sleeper, Chas. W. Pickering, Josiah D. Presscott, Charles B. Clark, Wm. A. Shackford, Nathan H. Leavitt, jr., Levi Wilson, Samuel S. Warner, Pike H. Harvey, John R. Reading, Samuel Langdon, David Griffin, Thos. Green, Joseph Chase, Lafayette Hall, Harry S. Parker, Hosea B. Snell, Franklin Colbath, Chas. H. Boody, William Proctor, Jacob W. Evans, Ebenezer P. Osgood, John W. Busiel, John Neally, Nathan B. Wadleigh, Lyman B. Ames, William S. Woodman, Benjamin B. Lamprey, Harrison C. Smith, Thomas J. Allard, George W. M. Pitman, Daniel Chandler, 2d, Christopher W. Wilder, Charles H. Osgood, Thomas Lovering, Jonathan Gale, William H. H. Mason, Henry J. Banks, Sanborn B. Carter, Elisha Goodwin, jr., Henry Dowst, Henry A. Weymouth, Samuel C. Clement, William O. Heath, Joseph Ayers, John S. Sherburne, Charles Smith, Samuel Martin, Archelaus Moore, James M. Sawyer, Hiram Cilley, Charles O. Rogers, Christopher G. McAlpine, Lemuel W. Collins, Jason Walker, Jno. C. Dodge, Augustus Wilson, Alfred W. Savage, Brooks K. Webber, Ephraim Dutton, John W. Griffin, Andrew W. Raymond, George Edgecomb, Dennis D. Sullivan, Eldridge P. Brown, Andrew J. Bennett, William G. Butler, Francis Green, Joel Hesselton, Silas Chapman, Asa H. Burge, James H. Goodrich, Aaron D. Hammond, Ezra G. Huntley, Asa H. Bullock, Edward E. Upton, Philip D. Angier, David Parsons, Leonard B. Holland, George Rust, Charles Knight, John Chase, Abram Bean, Daniel A. George, Ora M. Huntoon, Weld D. Proctor, Luke Gale, John Bedel, Chase Whitcher, Thomas J. Spooner, James C. Felch, Joseph D. Weeks, John A. Butrick, Elias M. Blodgett, James M. Dristen, Nathaniel W. Cheney, Alvah Stevens, Joseph Wheat, George F. Putnam, Charles M. Weeks, Thomas Muzzey, George F. Cummings, Daniel Whitcher, Samuel A. Edson, Charles C. Smith, Richard Smith, Joseph A. Dodge, Horace B. Perkins, George W. Garland, Samuel B. Page, Joseph Savage, Joseph W. Campbell, Daniel Green, Charles S. Leavitt, Benjamin Young, William S. Rolfe, Lucius Bond, Charles L. Heywood, Rufus F. Ingalls, Charles L. Plaisted, Moses Hodgdon, jr., Wayne Cobleigh, Thomas C. Hart, Cyrus E. Bickford, Sylvanus M. Jordan, Sam. C. Brown*—131.

New Jersey.

[Late in the session, the Senate, by a party vote, passed a resolution postponing all action on the amendment till the third Tuesday of January, 1870—the Republicans voting no. The House did not act on the resolution.]

New York.

SENATE, *April* 14, 1869.

YEAS—Messrs. Samuel Campbell, Orlow W. Chapman, Richard Crowley, Charles J. Volger, Matthew Hale, Wolcott J. Humphrey, George N. Kennedy, Abner C. Mattoon, Lewis H. Morgan, John I. Nicks, John O'Donnell, Abiah W. Palmer, Abraham X. Parker, Charles Stanford, Francis S. Thayer, John B. Van Petten, Stephen K. Williams—17.

NAYS—Messrs. *A. Bleecker Banks, Geo. Beach, John J. Bradley, William Cauldwell, Thomas J. Creamer, Lewis A. Edwards, Henry W. Genet, William M. Graham, John F. Hubbard, jr., Lewis Morris, Henry C. Murphy, Asher P. Nichols, Michael Norton, James F. Pierce, William M. Tweed*—15.

HOUSE, *March* 17, 1869.

YEAS—James R. Allaban, A. H. Andrews, Clifford S. Arms, Eli Avery, Isaac V. Baker, jr., W. F. Barker, C. V. B. Barse, Benjamin J. Bassett, P. H. Bender, D. V. Berry, Monroe Brundage, W. W. Butterfield, Albert C. Calkins, Winfield S. Cameron, W. W. Campbell, Wesley M. Carpenter, James A. Chase, G. Clark, W. A. Coannt,

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Hugh Conger, George Cook, H. M. Crane, J. C. Bancroft Davis, Erasmus W. Day, J. Dimick, B. Doolittle, E. Ely, W. M. Ely, Benjamin Farley, J. Ferris, Sanford Gifford, George M. Gleason, Elijah M. K. Glenn, David R. Gould, Miles B. Hackett, Marvin Harris, W. W. Hegeman, F. A. Hixson, A. B. Hodges, C. Dewitt Hoyt, Marcus A. Hull, James A. Husted, James V. Kendall, E. C. Kilham, Nicholas B. La Bau, James D. Lasher, S. Mitchell, J. M. Palmer, C. Pearsall, William I. Perry, Andrew J. Randall, C. Ray, Charles B. Rich, Silas Richardson, James A. Richmond, Samuel Root, E. F. Sargent, J. O. Schoonmaker, John H. Selkreg, L. E. Smith, N. B. Smith, D. Stewart, W. H. Stuart, Moses Summers, Merritt Thornton, Lyman Truman, Addison B. Tuttle, Edward C. Walker, C. H. Weed, Hiram Whitmarsh, C. S. Wright, Truman G. Younglove—72.

NAYS—*G. J. Bramler, W. G. Bergen, N. C. Bradstreet, Denis Burns, T. J. Campbell, Owen Cavanagh, H. M. Clark, Henry J. Cullen, jr., P. R. Dyckman, C. Ferris, A. J. Flynn, John Galvin, Baldwin Griffin, William Halpin, Anthony Hartman, A. E. Hasbrouck, William Hitchman, Morgan Horton, H. B. Howard, James Irving, John C. Jacobs, Law. D. Kiernan, John M. Kimball, J. L. La Moree, E. D. Lawrence, Thomas Y. Lyon, Josiah T. Miller, P. Mitchell, William W. Moseley, M. C. Murphy, Martin Nachtmann, D. O'Keeffe, Edward L. Patrick, J. B. Pearsall, George W. Plunkitt, Josiah Porter, R. M. Skeels, A. W. Smith, James Stevens, Edward Sturges, James Suffern, John Tighe, Moses Y. Tilden, D. W. C. Tower, Peter Trainer, Charles H. Whalen, Henry Woltman*—47.

NOT VOTING—Edward Akin, Matthew P. Bemus, *John Decker, John L. Flagg, George L. Fox, Alexander Frear, John Keegan, John B. Madden*, H. Ray—9.

North Carolina.

SENATE, *March* 4, 1869.

YEAS—Messrs. William Barrow, J. W. Beasley, P. T. Beeman, N. B. Bellamy, C. H. Brogden, Silas Burns, Jas. Blythe, D. D. Colgrove, J. B. Cook, J. H. Davis, J. B. Eaves, Henry Eppes, Samuel Forkner, A. H. Galloway, O. S. Hayes, J. S. Harrington, J. A. Hyman, A. J. Jones, W. D. Jones, R. W. Lassiter, Edwin Legg, J. M. Lindsay, P. A. Long, *W. L. Love, L. A. Mason*, F. G. Martindale, W. A. Moore, W. M. Moore, *J. W. Osborne*, W. B. Richardson, J. B. Respass, T. M. Shoffner, S. P. Smith, J. W. Stephens, W. H. S. Sweet, G. W. Welker, E. A. White, R. J. Wynne, C. S. Winstead, Peter Wilson—40.

NAYS—Messrs. *Joshua Barnes, R. L. Beall, J. W. Graham, C. Melchor, W. M. Robbins, J. G. Scott*—6.

HOUSE, *March* 4, 1869.

YEAS—Messrs. Joseph W. Holden, (Speaker,) Wallace Ames, *Thomas M. Argo*, J. Ashworth, Louis Banner, S. C. Barnett, E. T. Blair, J. W. Bowman, W. G. Candler, M. Carson, W. Carey, Wm. Cawthorn, H. C. Cherry, J. H. Crawford, Joseph Dixon, Hugh Downing, D. S. Ellington, L. G. Estes, R. Falkenor, F. W. Foster, S. D. Franklin, George Z. French, Geo. W. Gahagan, W. W. Gilbert, George A. Graham, *W. W. Grier*, W. T. Gunter, J. T. Harris, J. H. Harris, W. T. J. Hayes, A. L. Hendrix, R. H. Hilliard, B. R. Hinnaut, David Hodgin, *P. Hodnett*, J. Hoffman, S. G. Horney, *T. C. Humphries*, Ivey Hudgings, Dixon Ingram, *T. J. Jarvis*, W. D. Justus, J. M. Justice, *J. A. Kelly*, Geo. Kinney, Byron Laflin, J. S. Leary, J. B. Long, C. Mayo, W. W. McCanless, J. R. Mendenhall, F. G. Moring, *J. A. Moore*, W. A. Moore, B. D. Morrill, B. W. Morris, R. C. Parker, J. T. Pearson, E. W. Pou, Geo. W. Price, jr., E. K. Proctor, J. W. Ragland, J. J. Red, John W. Renfrow, P. D. Robbins, *J. L. Robinson*, J. T. Reynolds, A. T. Seymour, W. B. Siegrist, James Sinclair, J. R. Simonds, J. J. Smith, E. T. Snipes, *George W. Stanton*, Hiram E. Stilley, J. S. Sweat, T. A. Sykes, T. M. Vestal, J. P. Vest, J. E. Waldrop, *W. P. Welch*, J. White, *R. D. Whitley*, L. D. Wilkie, J. H. Williamson, S. C. Wilson, A. C. Wiswall—87.

NAYS—Messrs. *J. J. Allison, N. E. Armstrong, W. W. Boddie, J. W. Clayton, Plato Durham, T. Farrow, W. B. Ferebee, J. P. Gibson, J. A. Hawkins, D. P. High, W. H. Malone, J. C. McMillan, T. A. Nicholson, E. M. Painter, David Proffit, Isaac M. Shaver, J. L. Smith, D. E. Smith, F. Thompson, B. C. Williams*—20.

Ohio.*

SENATE, *April* 30, 1869.

YEAS—Messrs. Thomas R. Biggs, J. Twing Brooks, J. B. Burrows, Abel M. Corey, David A. Dangler, Homer Everett, L. D. Griswold, J. Francis Keifer, Henry Kessler, King, Solomon Kraner, Abraham Simmons, William Stedman, Samuel N. Yeoman—14.

NAYS—*Messrs. Curtis Berry, jr., W. H. H. Campbell, Wm Carter, S. F. Dowdney, J. Emmitt, Louis Evans, T. J. Godfrey, W. Reed Golden, Harmount, Robert Hutcheson, James B. Jamison, Jonathan Kenney, William Lawrence, Daniel B. Linn, Manuel May, Henry W. Onderdonk, Geo. Rex, Charles M. Scribner, John L. Winner*—19.

HOUSE, *April* 1, 1869.

YEAS—Messrs. Ross W. Anderson, Madison Bets, Hiram Bronson, Delos Canfield, Reuben P. Cannon, S. C. Carpenter, George Crist, Robert B. Dennis, Joseph H. Dickson, Jeremiah M. Dunn, William M. Eames, Morris E. Gallup, Benjamin L. Hill, Amos Hill, William P. Johnson, Samuel F. Kerr, Samuel C. Kerr, M. C. Lawrence, Alfred E. Lee, Samuel T. McMorran, Fred. W. Moore, Welcome O. Parker, William Ritezel, Jonathan K. Rukenbrod, James Sayler, William H. Scott, John Lincoln, William Sinclair, Geo. W. Skaats, Perry Stewart, Josiah Thompson, Joseph C. Ullery, Henry Warnking, Marwin Warren, Thomas Welsh, Jacob Wolf—36.

NAYS—*Messrs. William T. Acker, Jacob Baker, Edward Ball, Wilmer M. Belville, John W. Branch, Peres B. Buell, Bushnall, Daniel J. Callen, Joseph R. Cockerill, Elisha G. Denman, Joseph Dilworth, Levi Dungan, William Fielding, Isaac J. Finley, Elias W. Gaston, Robert B. Gordon, Eliel Headley, George Henricks, William D. Hill, Peyton Hord, John L. Hughes, Hugh*

*The vote actually taken was on a joint resolution to *reject*, but I have made the record correspond with other States, and stated it as if the motion had been to *ratify*.

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J. Jewett, Richard E. Jones, John D. Kemp, Jno. M. Kennon, Wm. Larwill, John Lawson, Ralph Leete, C. T. Mann, Lawrence McMarrell, More, Lawrence T. Neal, James W. Newman, Thomas M. Nichol, Morgan N. Odell, James Parks, Jno. B. Read, James Robinson, William L. Ross, N. C. Rutter, William Shaw, Andrew J. Swain, Jeriah Swetland, Ansel T. Walling, William R. Wilson, Samuel M. Worth, and Speaker—47.

Oregon.

[Not yet voted.]

Pennsylvania.

SENATE, *March* 11, 1869.

YEAS—Messrs. Esaias Billingfelt, James C. Brown, G. Dawson Coleman, George Connell, Russell Erreth, James W. Fisher, James L. Graham, A. Wilson Heuszey, James Kerr, Morrow B. Lowry, A. G. Olmsted, P. M. Osterhout, Jno. K. Robinson, C. H. Stinson, Alex. Stutzman, A. W. Taylor, H. White, Wilmer Worthington—18.

NAYS—*Messrs. John B. Beck, R. S. Brown, Charlton Burnett, J. D. Davis, C. M. Duncan, George D. Jackson, R. J. Linderman, William McCandless, Charles J. T. McIntire, A. G. Miller, D. A. Nagle, William M. Randall, Thomas B. Searight, Samuel G. Turner, William A. Wallace*—15.

HOUSE OF REPRESENTATIVES, *March* 25, 1869.

YEAS—Messrs. Alex. Adaire, Fred. W. Ames, William Beatty, Samuel T. Brown, Andrew J. Buffington, Wm. M. Bumd, Loren Burritt, John F. Chamberlain, Thos Church, Junius R. Clark, John Cloud, Elisha W. Davis, Allender P. Duncan, John Edwards, David Foy, Jacob C. Gatchell, Alex. C. Hamilton, Jacob G. Heilman, A. Jackson Herr, Wm. G. Herrold, Robert Hervey, Henry B. Hoffman, Jas. Holgate, Marshall C. Hong, Washington W. Hopkins, Miles S. Humphreys, Jas. A. Hunter, Samuel M. Jackson, Samuel Kerr, Chas. Kleckner, Augustus B. Leedond, Alex. Leslie, Jacob H. Longenecker, David M. Marshall, Amos H. Martin, Stephen M. Meredith, Vincent Miller, George F. Morgan, George W. Myers, Thomas Nicholson, Jerome B. Niles, Wm. P. I. Painter, Jacob G. Peters, Jas. M. Phillips, Geo. P. Rea, Archimides Robb, Jos. Robison, David Robison, Almon P. Stephens, James V. Stokes, John D. Stranahan, Butler B. Strang, Jas. Subers, Aaron H. Summy, James Taylor, Harvey J. Vankirk, John H. Walker, James H. Webb, Jno. Weller, Geo. S. Westlake, Geo. Wilson, John Clark, (Speaker,)—62.

NAYS—Messrs. *Joshua Beans, Michael Beard, Samuel F. Bossard, Phillip Breen, Henry Brobst, Robert B. Brown, Theodore Cornman, Daniel H. Creitz, Samuel D. Dailey, William J. Davis, Armstrong B. Dill, James Eschbach, John H. Fogel, George H. Goundie, Henry S. Hottenstein, George R. Hursk, Richmond L. Jones, Samuel Josephs, William H. Kase, Thos. J. McCullough, John M. Ginnis, Edward C. McKinstry, Henry McMiller, P. Gray Meek, Michael Mullin, Wm. M. Nelson, Decatur E. Nice, Danl. L. O'Neill, Jas. Place, Wm. H. Playford, John Porter, Benjamin F. Porter, John I. Rogers, George Scott, Jos. Sedgwick, John Shirely, Lewis H. Stout, Nathan G. Westler*—38.

Rhode Island.

SENATE, *May* 27, 1869.

YEAS—Messrs. Wheaton Allen, Nicholas Ball, George L. Clark, George H. Corliss, Benoni Carpenter, Samuel W. Church, James S. Cook, Geo. B. Coggeshall, John M. Douglass, James T. Edwards, Benjamin Fessenden, Lysander Flagg, Charles H. Fisher, Albert G. Hopkins, David Hopkins, Asahel Matteson, Jos. Osborne, Daniel B. Pond, William C. Potter, Jethro Peekham, Isaac B. Richmond, Lewis B. Smith, Charles C. Van Zandt—23.

NAYS—Messrs. Pardon W. Stevens, *Alfred Anthony*, William Butler, Stephen C. Browning, *Silas C. Crandall*, Samuel H. Cross, *Alexander Eddy, Timothy A. Leonard, Nathaniel C. Peckham, John B. Pearce, Joseph W. Sweet*, George W. Taylor—12.

HOUSE OF REPRESENTATIVES, *May* 29, 1869.

Vote on postponing the question till the January session.

FOR POSTPONEMENT—Messrs. William D. Aldrich, Ferdinand H. Allen, *Emor J. Angell*, Julius Baker, *George N. Bliss*, Theodore P. Bogert, Baylies Bourne, John C. Brown, Ezra J. Cady, *J. Hamilton Clarke*, Nathaniel B. Durfee, Henry T. Grant, Richard W. Greene, Mason W. Hale, Stephen Harris, William S. Kent, Robert R. Knowles, Edward Lillibridge, John Loveland, *Francis W. Miner*, Arlon Mowry, George H. Olney, *Samuel B. Parker*, John C. Pegram, *Samuel Rodman, jr.*, William P. Shaffield, *Nathaniel C. Smith, George T. Spicer, Joseph E. Speink*, Horatio A. Stone, *Nathan T. Verry, Albert M. Waite*, John E. Weeden, *Joseph D. Wilcox*, Jas. M. Wright—35.

AGAINST POSTPONEMENT—Messrs. Benjamin T. Eames, (Speaker,) William T. Adams, Edwin Aldrich, Lucius C. Ashley, John H. Barden, William W. Blodgett, Francis Brinley, Joseph F. Brown, Henry Bull, jr., John T. Bush, Thomas G. Carr, John G. Childs, Thomas Coggeshall, jr., James C. Collins, Davis Cook, jr., Saladin Cook, Ed. Dowling, Daniel E. Day, Henry F. Brown, Edwin L. Freeman, George W. Green, David S. Harris, Wm. Knowles, Nathan B. Lewis, Jesse Metcalf, Jabez W. Mowry, Charles H. Perkins, William H. Seagrave, Owen W. Simmons—29.

South Carolina.

SENATE, *March* 6, 1869.

YEAS—Messrs. *H. Buck*, R. H. Cain, E. E. Dickson, R. J. Donaldson, H. W. Duncan, J. A. Greene, W. R. Hoyt, J. K. Jillson, C. P. Leslie, John Lunney, C. W. Montgomery, H. J. Maxwell, W. B. Nash, Y. J. P. Owens, J. H. Rainey, W. E. Rose, S. A. Swails, J. J. Wright—18.

NAY—Mr. *Joel Foster*—1.

HOUSE OF REPRESENTATIVES, *March* 11, 1869.

YEAS—Messrs. F. J. Moses, jr., (Speaker,) B. A. Boseman, B. F. Berry, W. J. Brodie, S. Brown, John Boston, Joseph Boston, John A. Boswell, *Jason Bryant*, W. A. Bishop, Lawrence Cain, E. J. Cain, Wilson Cooke, W. S. Collins, Joseph Crews, R. C. DeLarge, John B. Dennis, William Driffle, R. B. Elliott, J. H. Feriter, S. Farr, W. H. W. Gray, John Gardner, Æsop Goodson, E.

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Hayes, C. D. Hayne, James N. Hayne, B. Humphries, G. Hollinan, James Hutson, D. Harris, John B. Hyde, D. J. J. Johnson, W. E. Johnston, S. Johnson, B. F. Jackson, H. Jacobs, B. James, H. James, W. R. Jervay, J. H. Jones, W. H. Jones, C. S. Kuh, H. J. Lomax, George Lee, S. J. Lee, J. Long, J. Mayer, W. C. Morrison, W. J. McKinley, E. Mickey, G. F. McIntyre, H. McDaniels, J. S. Mobley, J. P. Mays, J. W. Mead, W. Nelson, J. W. Nash, J. L. Nagle, P. J. O'Connell, H. W. Purvis, W. Perrin, J. Prendegrass, A. J. Ransier, Thomas Richardson, T. Root, A. Rush, P. R. Rivers, E. M. Stoeber, C. J. Stolbranch, Robert Smalls, A. Smith, S. Saunders, H. L. Shrewsbury, P. Smythe, T. K. Serporlas, R. F. Scott, B. A. Thompson, S. B. Thompson, Reuben Tomlinson, W. M. Thomas, S. Tinsley, C. M. Wilder, John Wooley, W. J. Whipper, J. H. White, J. B. Wright, George M. Wells—88.

NAYS—Messrs. *O. M. Doyle, R. M. Smith, John Wilson*—3.

NOT VOTING—Messrs. B. Barton, *T. F. Clyburn*, John A. Chestnut, George Dusenberry, L. W. Duvall, F. De Mars, P. E. Ezekiel, John G. Grant, J. Henderson, J. H. Jenks, H. Johnson, G. Johnson, *W. C. Keith, F. A. Lewie, S. Littlejohn*, Wm. McKinley, *John B. Moore*, Y. B. Milford, F. F. Miller, W. J. Mixson, S. Nuckles, C. H. Pettengill, *B. F. Sloan, W. G. Stewart*, William Simons, J. Smiley, *C. C. Turner, W. W. Waller*, H. W. Webb—29.

Tennessee.

[Not yet voted.]

Texas.

[Not yet voted.]

Vermont.

[Not yet voted.]

Virginia.

[Not yet voted.]

West Virginia.

SENATE, *March* 3, 1869.

YEAS—Messrs. Joseph T. Hoke, (President,) James Burley, H. K. Dix, Willis J. Drummond, Ephraim Doolittle, George K. Leonard, Z. D. Ramsdell, Alstorpheus Werninger, Wm. Workman, Samuel Young—10.

NAYS—Messrs. *Lewis Applegate*, Wm. J. Boreman, Jesse H. Cather, *Henry G. Davis*, John M. Phelps, *Andrew Wilson*—6.

HOUSE, *March* 2, 1869.

YEAS—Messrs. Solomon G. Fleming, (Speaker,) Joseph W. Allison, George W. Carpenter, James Carpenter, Benjamin F. Charlton, Elias Cunningham, George Edwards, Joseph H. Gibson, Sidney Haymond, Fenelon Howes, John S. Keever, Edward S. Mahon, Andrew W. Mann, William M. Powell, Thomas G. Putnam, John Reynolds, Barney J. Rollins, Owen G. Scofield, John Rufus Smith, Jesse F. Snodgrass, Richard Thomas, William O. Wright—22.

NAYS—Messrs. *Rhodes B. Ballard*, John Bowyer, *Reuben Davisson*, Henry H. Dits, William M. French, Alpheus Garrison, *Benjamin F. Harrison, James Hervey, John A. Hutton, Alexander M. Jacob, John J. Jacob*, John Kincaid, *Daniel Lamb, Thomas W. Manion*, Jas. T. McClaskey, David S. Pinnell, Charles W. Smith, Louis C. Stifel, *John T. Vance*—19.

Wisconsin.

SENATE, *March* 9, 1869.

YEAS—Messrs. Henry Adams, S. S. Barlow, W. J. Copp, J. W. Fisher, William M. Griswold, Geo. C. Hazelton, Lemuel W. Joiner, W. J. Kershaw, A. W. Newman, David Taylor, Anthony Van Wyck, Geo. D. Waring, Chas. M. Webb, C. G. Williams, Nelson Williams—15.

NAYS—Messrs. *W. J. Abrams, Satterlee Clarke, H. H. Gray, Carl Habich, Chas. H. Larkin, Wm. Pitt Lynde, Lyman Morgan, Geo. Reed, Adam Schantz, W. W. Woodman, Wm. Young*—11.

ABSENT AND NOT VOTING—*E. S. Bragg, C. M. Buth, William Ketcham*, N. M. Littlejohn, *M. W. Louder, Curtis Mann*, Henry Stevens—7.

HOUSE OF REPRESENTATIVES, *March*, 3, 1869.

YEAS—Messrs. Fayette Allen, Douglas Arnold, H. D. Barron, J. B. G. Baxter, J. Bennett, Van S. Bennett, Benjamin H. Bettis, J. M. Bingham, J. N. P. Bird, Thomas Blackstock, H. C. Bottum, G. H. Brock, Luther Buxton, Sylvester Calwell, Ben. M. Coutes, Joseph S. Curtis, W. P. Dewey, Seth Fisher, Jas. S. Foster, Hiram L. Gilmore, Geo. T. Graves, J. K. Hamilton, Joseph Harris, Andrew Henry, Robert Henry, Edwin L. Hoyt, Frederick Huntley, Edwin Hurlbut, Thos. A. Jackson, D. H. Johnson, J. E. Johnson, C. C. Kuntz, O. B. Lapham, A. R. McCartney, J. R. McDonald, John McLees, D. E. Maxson, Knute Nelson, C. C. Palmer, C. D. Parker, C. H. Parker, Cyrus Perry, A. L. Phillips, Thad. C. Pound, Abner Powell, N. B. Richardson, Freeman M. Ross, Wm. E. Rowe, M. H. Sessions, Adelman Sherman, John A. Smith, S. E. Tarbell, Joseph M. Thomas, Thornton Thompson, Vernon Lichoner, G. W. Trask, A. J. Turner, N. P. Waller W. S. Warner, Jefferson F. Wescott, Samuel C. West, and Mr. Speaker A. M. Thomson—62.

NAYS—Messrs. *John Adams, John H. Bohne, A. K. Delaney. Andrew Dieringer, Richard Donovan, Patrick Drew, Rees Evans, B. F. Fay, John Fellenz, Charles Geisse, Job Haskell, James Woye, E. H. Ives, John Kastler, J. McDonald, C. E. McIntosh, D. W. Maxon, William Murphy, Eugene O'Connor, C. H. M. Peterson, J. Phillips, C. Pole, Jerome B. Potter, Henry Reed, Henry C. Rankel, John Ruttledge, John Scheffel, Geo. B. Smith, Joseph Winslow*—29.

NOT VOTING—Messrs. George Abert, P. J. Conklin, J. L. Fobes, John Gillespie, Daniel Hooper, A. G. Kellam, *Henry Roethe*, Parlan Semple, *Randall Wilcox*—9.

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XLVIII.

STATISTICAL TABLES.

PRESIDENTIAL ELECTION RETURNS.—NATIONAL DEBT STATEMENT.

***Electoral and Popular Votes for President of the United States† for the Term Commencing March 4, 1869.**

Number of Votes.	States.	‡For President of the United States.		Popular Vote.		
		U. S. Grant, of Illinois.	Horatio Seymour, of New York.	Republican, Grant.	Democratic, Seymour.	Republican Majorities.
5	New Hampshire	5		38,191	31,224	6,967
12	Massachusetts	12		136,477	59,408	77,069
4	Rhode Island	4		12,993	6,548	6,445
6	Connecticut	6		50,641	47,600	3,041
5	Vermont	5		44,167	12,045	32,122
33	New York		33	419,883	429,883	§10,000
7	New Jersey		7	80,121	83,001	§2,880
26	Pennsylvania	26		342,280	313,382	28,898
3	Delaware		3	7,623	10,980	§3,357
7	Maryland		7	30,438	62,357	§31,919
	Virginia‖					
9	North Carolina	9		96,226	84,090	12,136
6	South Carolina	6		62,301	45,237	17,064
11	Kentucky		11	39,566	115,889	§76,323
10	Tennessee	10		56,757	26,311	30,446
21	Ohio	21		280,128	238,700	41,428
7	Louisiana		7	33,263	80,225	§46,962
13	Indiana	13		176,552	166,980	9,572
	Mississippi‖					
16	Illinois	16		250,293	199,143	51,150
8	Alabama	8		76,366	72,086	4,280
7	Maine	7		70,426	42,396	28,030
11	Missouri	11		85,671	59,788.	25,883
5	Arkansas	5		22,152	19,078	3,074
8	Michigan	8		128,550	97,069	31,481
3	Florida¶	3				
	Texas‖					
8	Wisconsin	8		108,857	84,710	24,147
8	Iowa	8		120,399	74,040	46,359
5	California	5		54,592	54,078	514
4	Minnesota	4		43,542	28,072	15,470
3	Oregon		3	10,961	11,125	§164
3	Kansas	3		31,049	14,019	17,030
5	West Virginia	5		29,025	20,306	8,719
3	Nevada	3		6,480	5,218	1,262
3	Nebraska	3		9,729	5,439	4,290
	Excluding Georgia	214	71	2,955,699	2,600,427	355,272
9	Georgia		9	57,134	102,822	§45,688
	Including Georgia	214	80	3,012,833	2,703,249	309,584

*The whole number of electors to vote for President and Vice President, including electors of Georgia, is 294, of which a majority is 148; and the whole number, excluding those of Georgia, is 285, of which a majority is 143.

†For presidential election returns of 1860 and 1864 see p. 111 Political Manual for 1868, or p. 372 Hand-Book of Politics.

‡For Vice President, Schuyler Colfax, of Indiana, received 214 electoral votes; and F. P. Blair, Jr., of Missouri, 71 votes, excluding the vote of Georgia, or 80 including it.

§Democratic majorities.

‖No vote.

¶By legislature.

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STATEMENT OF THE PUBLIC DEBT OF THE UNITED STATES.—JULY 1, 1869.

Debt bearing Coin Interest.

Authorizing Acts.	Character of Issue.	Rate of Interest.	Amount outstanding.	When Redeemable or Payable.	Accrued Interest.	When Payable.
June 14, 1858	Bonds	5 per cent	$20,000,000 00	Payable after 15 years from January 1, 1859	$500,000 00	January and July.
June 22, 1860	Bonds	5 per cent	7,022,000 00	Payable after 10 years from January 1, 1861	175,550 00	January and July.
February 8, 1861	Bonds, 1881	6 per cent	18,415,000 00	Payable after December 31, 1880	552,450 00	January and July.
March 2, 1861	Bonds, (Oregon war,) 1881.	6 per cent	945,000 00	Redeemable 20 years from July 1, 1861	28,350 00	January and July.
July 17 and August 5, 1861.	Bonds, 1881	6 per cent	189,317,500 00	Payable at pleasure of Government after 20 years from June 30, 1861.	5,679,525 00	January and July.
February 25, 1862	Bonds, (5-20's)	6 per cent	514,771,600 00	Redeemable after 5 and payable 20 years from May 1, 1862	5,147,716 00	May and November.
March 3, 1863	Bonds, 1881	6 per cent	75,000,000 00	Payable after June 30, 1881	2,250,000 00	January and July.
March 3, 1864	Bonds, (10-40's)	5 per cent	194,567,300 00	Redeemable after 10 and payable 40 years from March 1, 1864	3,242,788 33	March and September.
March 3, 1864	Bonds, (5-20's)	6 per cent	3,882,500 00	Redeemable after 5 and payable 20 years from Nov. 1, 1864	38,825 00	May and November.
June 30, 1864	Bonds, (5-20's)	6 per cent	125,561,300 00	Redeemable after 5 and payable 20 years from Nov. 1, 1864	1,255,613 00	May and November.
March 3, 1865	Bonds, (5-20's)	6 per cent	203,327,250 00	Redeemable after 5 and payable 20 years from Nov. 1, 1865	2,033,272 50	May and November.
March 3, 1865	Bonds, (5-20's)	6 per cent	332,998,950 00	Redeemable after 5 and payable 20 years from July 1, 1865	9,989,968 50	January and July.
March 3, 1865	Bonds, (5-20's)	6 per cent	379,582,850 00	Redeemable after 5 and payable 20 years from July 1, 1867	11,387,455 50	January and July.
March 3, 1865	Bonds, (5-20's)	6 per cent	42,539,350 00	Redeemable after 5 and payable 20 years from July 1, 1868	1,276,210 50	January and July.
Aggregate of debt bearing coin interest			2,107,930,600 00		43,557,724 33	
				Coupons payable May 1, 1869, not presented for payment	2,938,388 00	
					46,496,112 33	
				Less amount paid in advance	1,122,182 00	
					45,373,930 33	

Debt bearing Interest in Lawful Money.

March 2, 1867, and July 2, 1868.	Certificates	3 per cent.	$52,120,000 00	On demand, (interest estimated for 9 months)	$1,172,700 00	Ann'ally or on redemption of certificate.
July 23, 1868	Navy Pens'n Fund	3 per cent.	14,000,000 00	Interest only applicable to payment of pensions	210,000 00	January and July.
Aggregate of debt bearing interest in lawful money			66,120,000 00		1,382,700 00	

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STATEMENT OF THE PUBLIC DEBT OF THE UNITED STATES, JULY 1, 1869.—Continued.

Debt on which Interest has ceased since maturity.

Authorizing Acts.	Character of Issue.	Rate of Interest.	Amount outstanding.	When Redeemable or Payable.	Accrued Interest.
April 15, 1842	Bonds	6 per cent	$6,000 00	Matured December 31, 1862	$360 00
January 28, 1847	Bonds	6 per cent	26,150 00	Matured December 31, 1867	1,569 00
March 31, 1848	Bonds	6 per cent	69,850 00	Matured July 1, 1868, (9 months' interest)	3,143 25
September 9, 1850	Bonds, (Tex. ind.)	5 per cent	242,000 00	Matured December 31, 1864	12,100 00
Prior to 1857	Treasury notes	1 mill to 6 per ct.	104,511 64	Matured at various dates	3,135 35
December 23, 1857	Treasury notes	5 to 5½ per ct	2,400 00	Matured March 1, 1859	120 00
March 2, 1861	Treasury notes	6 per cent	3,300 00	Matured April and May, 1863	198 00
July 17, 1867	Treasury notes, (3 years.)	7 3-10 per cent	34,900 00	Matured August 19 and October 1, 1864	2,547 70
March 3, 1863	Treasury notes, (1 and 2 years.)	5 per cent	338,552 00	Matured from January 7 to April 1, 1866	16,927 60
March 3, 1863	Certificates of ind.	6 per cent	12,000 00	Matured at various dates in 1866	720 00
March 3, 1863, and June 30, 1864.	Comp. int. notes	6 per cent	2,871,410 00	Matured June 10, 1867, and May 15, 1868	557,053 08
June 30, 1864	Temporary loan	4, 5, and 6 per ct.	186,310 00	Matured October 15, 1866	7,651 98
June 30, 1864, and March 3, 1865.	Treasury notes, (3 years.)	7 3-10 per cent	1,166,500 00	Matured August 15, 1867, and June 15, 1868	85,154 50
Aggregate of debt on which interest has ceased since maturity.			5,063,883 64		690,680 46

Debt bearing no Interest.

July 17, 1861 / February 12, 1862.	Demand notes	No interest	$121,637 50		
February 25, 1862. / July 11, 1862 / March 3, 1863	U. S. legal-ten. nts.	No interest	355,935,194 50		
July 17, 1862	Postal currency	No interest	32,062,027 73		
March 3, 1863 / June 30, 1864	Fractional cur'cy.	No interest			
March 3, 1863	Cert. for gold dep.	No interest	30,489,640 00		
Aggregate of debt bearing no interest			418,608,499 73		

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STATEMENT OF THE PUBLIC DEBT OF THE UNITED STATES, JULY 1, 1869.—Continued.

Recapitulation.

		Amount outstanding.	Interest.	
Debt bearing interest in coin, viz:				
Bonds at 5 per cent., issued before March 3, 1864	$27,022,000 00			
Bonds at 5 per cent., (10-40's,) issued under act of March 3, 1864	194,567,300 00			
Bonds of 1881, at 6 per cent	283,677,500 00			
5-20 Bonds, at 6 per cent	1,602,663,800 00	$2,107,930,600 00	45,373,930 33	
Debt bearing interest in lawful money, viz:				
Certificates, 3 per cent. interest	52,120,000 00			
Navy pension fund, 3 per cent. interest	14,000,000 00	66,120,000 00	1,382,700 00	
Debt bearing no interest, viz:				
Demand and legal-tender notes	356,056,832 00			
Postal and fractional currency	32,062,027 73			
Certificates of gold deposited	30,489,640 00	418,608,499 73		
Debt on which interest has ceased since maturity		5,063,883 64	690,680 46	
Total debt—Principal outstanding		2,597,722,983 37		
Interest accrued, $48,569,493 79, less am't of interest paid in advance, $1,122,182			47,447,310 79	
Total debt—Principal and interest				$2,645,170,294 16
Amount in Treasury—Coin, belonging to Government			$79,713,072 62	
Coin, for which certificates of deposit are outstanding			30,489,640 00	
Currency			37,097,818 89	
Sinking fund, in bonds bearing coin interest and accrued interest thereon			8,867,282 07	
				156,167,813 58
Amount of public debt, less cash and sinking fund in Treasury				2,489,002,480 58
Amount of public debt, less cash and sinking fund in Treasury, on the 1st ultimo				2,505,412,613 12
Decrease of public debt during the past month				16,410,132 54
Decrease since March 1, 1869				36,460,779 43

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STATEMENT OF THE PUBLIC DEBT OF THE UNITED STATES, JULY 1, 1869.—Continued.

Bonds issued to the Union Pacific Railroad Company and Branches, Interest Payable in Lawful Money.

Authorizing Acts.	Character of Issue.	Rate of Interest.	Amount outstanding.	When Redeemable or Payable.	Interest Payable.	Interest Accrued and not yet paid.	Interest paid by United States.	Interest repaid by transportat'n of mails, &c.	Balance of interest paid by United States.
July 1, 1862, and July 2, 1864.	Bonds, (Union Pacific Co.)	6 per cent.	$25,998,000 00	Payable 30 years from date.	January 1 and July 1.	$768,104 37	$1,313,765 52	$906,446 11	$407,319 41
July 1, 1862, and July 2, 1864.	Bonds, (Union Pacific, Eastern Division.)	6 per cent.	6,303,000 00	Payable 30 years from date.	January 1 and July 1.	189,090 00	645,723 09	546,569 10	99,153 99
July 1, 1862, and July 2, 1864.	Bonds, (Sioux City and Pacific.)	6 per cent.	1,628,320 00	Payable 30 years from date.	Jan. 1 & July 1	43,454 93	52,963 76	16 27	52,947 49
July 1, 1862, and July 2, 1864.	Bonds, (Central Pacific.)	6 per ct.	2,362,000 00 20,427,000 00	Payable 30 years from date.	Jan. 16 & July 16 Jan. 1 & July 1	64,065 65 543,064 49	517,956 83 584,829 76	72,666 99	1,030,119 60
July 1, 1862, and July 2, 1864.	Bonds, (Central Bra'ch Union Pacific, assignees of Atchison and Pike's Peak.)	6 per cent.	1,600,000 00	Payable 30 years from date.	January 1 and July 1.	48,000 00	157,808 26	3,490 79	154,317 47
July 1, 1862, and July 2, 1864.	Bonds, (Western Pacific.)	6 per cent.	320,000 00	Payable 30 years from date.	January 1 and July 1.	9,600 00	37,006 03		37,006 03
Total issue.....			58,638,320 00			1,665,469 44	3,310,053 25	1,529,189 26	1,780,863 99

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XLIX.

MISCELLANEOUS MATTERS.

Letter from General Sherman.

THE SURRENDER OF GENERAL JOS. E. JOHNSTON.

To the editor of the Tribune.

SIR: In your issue of yesterday is a notice of Mr. Healy's picture, representing the interview between Mr. Lincoln, General Grant, Admiral Porter, and myself, which repeats substantially the account published some time ago in *Wilkes' Spirit of the Times* explanatory of that interview, and attributing to Mr. Lincoln himself the paternity of the terms to General Johnston's army at Durham, in April, 1865.*

I am glad you have called public attention to the picture itself, because I feel a personal interest that Mr. Healy should be appreciated as one of our very best American artists. But some friends here think by silence I may be construed as willing to throw off on Mr. Lincoln the odium of those terms. If there be any odium, which I doubt, I surely would not be willing that the least show of it should go to Mr. Lincoln's memory, which I hold in too much veneration to be stained by anything done or said by me. I understand that the substance of Mr. Wilkes's original article was compiled by him after a railroad conversation with Admiral Porter, who was present at that interview, as represented in the picture, and who made a note of the conversation immediately after we separated. He would be more likely to have preserved the exact words used on the occasion than I, who made no notes, then or since. I cannot now even pretend to recall more than the subjects touched upon by the several parties, and the impression left on my mind after we parted. The interview was in March, nearly a month before the final catastrophe, and it was my part of the plan of operations to move my army, reinforced by Schofield, then at Goldsboro', North Carolina, to Burkesville, Virginia, when Lee would have been forced to surrender in Richmond. The true move left to him was a hasty abandonment of Richmond, join his force to Johnston's, and strike me in the open country. The only question was, could I sustain this joint attack till General Grant came up in pursuit? I was confident I could; but at the very moment of our conversation General Grant was moving General Sheridan's heavy force of cavalry to his extreme left to prevent this very contingency. Mr. Lincoln, in hearing us speak of a final bloody battle, which I then thought would fall on me near Raleigh, did exclaim, more than once, that blood enough had already been shed, and he hoped that the war would end without any more. We spoke of what was to be done with Davis, other party leaders, and the rebel army; and he left me under the impression that all he asked of us was to dissipate these armies, and get the soldiers back to their homes anyhow, the quicker the better, leaving him free to apply the remedy and the restoration of civil law. He (Mr. Lincoln) surely left upon my mind the impression, warranted by Admiral's Porter's account, that he had long thought of his course of action when the rebel armies were out of his way, and that he wanted to get civil governments reorganized at the South, the quicker the better, and strictly conforming with our general system.

I had been absent so long that I presumed, of course, that Congress had enacted all the laws necessary to meet the event of peace so long expected, and the near approach of which must then have been seen by the most obtuse, and all I aimed to do was to remit the rebel army surrendering to me to the conditions of the laws of the country as they then existed. At the time of Johnston's surrender at Durham, I drew up the terms with my own hand. Breckinridge had nothing at all to do with them more than to discuss their effect, and he knew they only applied to the military, and he forthwith proceeded to make his escape from the country; a course that I believe Mr. Lincoln wished that Mr. Davis should have succeeded in effecting, as well as all the other leading southern politicians against whom public indignation always turned with a feeling far more intense than against Generals Lee, Johnston, and other purely military men.

I repeat, that, according to my memory, Mr. Lincoln did not expressly name any specific terms of surrender, but he was in that kindly and gentle frame of mind that would have induced him to approve fully what I did, excepting, probably, he would have interlined some modifications, such as recognizing his several proclamations antecedent, as well as the laws of Congress, which would have been perfectly right and acceptable to me and to all parties.

I dislike to open this or any other old question, and do it for the reason stated, viz, lest I be construed as throwing off on Mr. Lincoln what his friends think should be properly borne by me alone.

If in the original terms I had, as I certainly meant, included the proclamations of the President, they would have covered the slavery question and all the real State questions which caused the war: and had not Mr. Lincoln been assassinated at that very moment, I believe those "terms" would have taken the usual course of approval, modification, or absolute disapproval, and been returned to me, like hundreds of other official acts, without the newspaper clamor and

* For these terms, see Political Manual for 1866, and the Hand-Book of Politics for 1868, p. 121.

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unpleasant controversies so unkindly and unpleasantly thrust upon me at the time.

I am, truly, yours,

W. T. SHERMAN, *General.*

WASHINGTON, D. C., *April* 11, 1869.

***President Grant's Proclamation for the Election in Mississippi, issued July 13, 1869.**

In pursuance of the provisions of the act of Congress approved April 10, 1869, I hereby designate Tuesday, the 30th day of November, as the time for submitting the constitution adopted on the 15th day of May, 1868, by the convention which met in Jackson, Mississippi, to the voters of said State registered at the date of such submission, viz, November 30, 1869.

And I submit to a separate vote that part of section 3 of article VII of said constitution, which is in the following words:

"That I am not disfranchised in any of the provisions of the act known as the reconstruction acts of the 39th and 40th Congresses, and that I admit the political and civil equality of all men; so help me God: *Provided*, That if Congress shall at any time remove the disabilities of any person disfranchised in the said reconstruction acts of the said 39th and 40th Congresses, (and the legislature of this State shall concur therein,) then so much of this oath, and so much only, as refers to the said reconstruction acts, shall not be required of such person so pardoned to entitle him to be registered."

And I further submit to a separate vote section 5 of the same article of said constitution, which is in the following words: "No person shall be eligible to any office of profit or trust, civil or military, in this State, who, as a member of the legislature, voted for the call of the convention that passed the ordinance of secession, or who, as a delegate to any convention, voted for or signed any ordinance of secession, or who gave voluntary aid, countenance, counsel, or encouragement to persons engaged in armed hostility to the United States, or who accepted or attempted to exercise the functions of any office, civil or military, under any authority or pretended government, authority, power, or constitution, within the United States, hostile or inimical thereto, except all persons who aided reconstruction by voting for this convention, or who have continuously advocated the assembling of this convention, and shall continuously and in good faith advocate the acts of the same; but the legislature may remove such disability: *Provided*, That nothing in this section, except voting for or signing the ordinance of secession, shall be so construed as to exclude from office the private soldier of the late so-called Confederate States army."

And I further submit to a separate vote section 5 of article XII of the said constitution, which is in the following words: "The credit of the State shall not be pledged or loaned in aid of any person, association, or corporation; nor shall the State hereafter become a stockholder in any corporation or association."

And I further submit to a separate vote part of the oath of office prescribed in section 26 of article XII of the said constitution, which is in the following words: "'That I have never, as a member of any convention, voted for or signed any ordinance of secession; that I have never, as a member of any State legislature, voted for the call of any convention that passed any such ordinance.' The above oath shall also be taken by all the city and county officers before entering upon their duties, and by all other State officers not included in the above provision."

I direct the vote to be taken upon each of the above cited provisions alone, and upon the other portions of the said constitution in the following manner, viz:

Each voter favoring the ratification of the constitution, (excluding the provisions above quoted,) as adopted by the convention of May 15, 1868, shall express his judgment by voting

FOR THE CONSTITUTION.

Each voter favoring the rejection of the constitution, (excluding the provisions above quoted,) shall express his judgment by voting

AGAINST THE CONSTITUTION.

Each voter will be allowed to cast a separate ballot for or against either or both of the provisions above quoted.

It is understood that sections 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15, of article XIII, under the head of "Ordinance," are considered as forming no part of the said constitution.

In testimony whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this thirteenth day of July, in the year of our Lord one thousand eight hundred and sixty-nine, and of the independence of the United States of America the ninety-fourth.

[SEAL.] U. S. GRANT.

By the President:

HAMILTON FISH,
Secretary of State.

***President Grant's Proclamation for the Election in Texas, issued July 15, 1869.**

In pursuance of the provisions of the act of Congress approved April 10, 1869, I hereby designate Tuesday, the 30th day of November, 1869, as the time for submitting the constitution adopted by the convention which met in Austin, Texas, on the 15th day of June, to the voters of said State, registered at the date of such submission, viz:

I direct the vote to be taken upon the said constitution in the following manner, viz:

Each voter favoring the ratification of the constitution, as adopted by the convention of the 15th of June, 1868, shall express his judgment by voting

FOR THE CONSTITUTION.

Each voter favoring the rejection of the constitution shall express his judgment by voting

AGAINST THE CONSTITUTION.

In testimony whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington, this fifteenth day of July, in the year of our Lord one thousand eight hundred and sixty-

* Received too late for insertion in proper place with other proclamations.

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[SEAL.] nine, and of the independence of the United States of America the ninety-fourth. U. S. GRANT.

By the President:
HAMILTON FISH,
Secretary of State.

Female Suffrage.

The special committee of the Senate of Massachusetts has reported the following amendment to the constitution of that State:

Article of amendment.—"The word 'male' is hereby stricken from the 3d article of the amendment of the constitution. Hereafter women of this Commonwealth shall have the right of voting at elections and be eligible to office on the same terms, restrictions, and qualifications, and subject to the same restrictions and disabilities, as male citizens of this Commonwealth now are, and no other."

[This amendment must be approved by two successive legislatures, and then submitted to the men of the State.]

June 2.—It was voted down by the *Senate*—yeas 9, nays 22, as follows:

YEAS.—Messrs. Whiting Griswold, Francis A. Hobart, Nathaniel J. Holden, Richmond Kingman, Charles R. Ladd, Charles Marsh, Robert C. Pitman, (President,) Richard Plumer, Chas. U. Wheelock—9.

NAYS.—Messrs. Geo. O. Brastow, Geo. M. Buttrick, H. H. Coolidge, Sam'l D. Crane, Edmund Dowse, John B. Hathaway, Estes Howe, George A. King, C. J. Kittredge, J. N. Marshall, Geo. H. Monroe, E. W. Morton, J. R. Palmer, Jos. G. Pollard, O. H. P. Smith, George H. Sweetser, George S. Taylor, Edward Thomas, J. S. Todd, Harrison Tweed, G. B. Weston, Jonathan White—22.

NOT VOTING.—Messrs. Nathaniel E. Atwood, Benjamin Dean, A. M. Giles, L. J. Knowles, John H. Lockey, Charles R. McLean. Daniel Needham, Jos. G. Ray, Geo. M. Rice—9.

Proposed XVIth Amendment.

HOUSE OF REPRESENTATIVES U. S., 1869, *March* 16.—Mr. JULIAN introduced a joint resolution proposing the following as the XVIth amendment to the Constitution of the United States:

ARTICLE XVI. The right of suffrage in the United States shall be based on citizenship, and shall be regulated by Congress, and all citizens of the United States, whether native or naturalized, shall enjoy this right equally, without any distinction or discrimination whatever founded on sex.

IN SENATE.
IN SENATE.
IN SENATE.

Proposed Amendment to Constitution of the United States.

At various public meetings the following amendment to the preamble of the Constitution of the United States has been proposed:

We, the people of the United States, acknowledging Almighty God as the source of all authority and power in civil government, the Lord Jesus Christ as the ruler among the nations, and His will, revealed in the Holy Scriptures, as of supreme authority, in order to constitute a christian government, form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, do ordain and establish this Constitution for the United States of America.

Elections of 1869.

In NEW HAMPSHIRE the vote was: for Governor, Onslow Stearns, (Rep.,) 35,733; John Bedel, (Dem.,) 32,001.

In RHODE ISLAND the vote was: for Governor, Seth Paddleford, (Rep.,) 7,359; Symon Pierce, (Dem.,) 3,390.

In CONNECTICUT the vote was; for Governor, Marshall Jewell, (Rep.,) 45,493; James E. English, (Dem.,) 45,082. Jewell's majority, 411.

In MICHIGAN, at the judicial election, Thomas M. Cooley was elected justice of the supreme court by 90,705 to 59,886 for O. Darwin Hughes.

In VIRGINIA the vote was: for Governor, Gilbert C. Walker, (Cons.,) 119,492; H. H. Wells, (Rep.,) 101,291—Walker's majority, 18,264. The vote on clauses was: for clause 4, sec. 1, art. III of constitution, (disfranchising,) 84,410, against 124,360—majority, 39,950; for sec. 7, art. III, (test oath,) 83,458, against 124,715—majority, 41,257. For the constitution, 210,585, against 9,136.

In WASHINGTON Territory the vote was: for Delegate to Congress, Garfield, (Rep.,) 2,742; Moore, (Dem.,) 2,595—Garfield's majority, 147.

R. T. Daniel's Dispatch to President Grant.

RICHMOND, *July* 7, 1869.

Mr. PRESIDENT: On behalf of the State executive committee of the Walker party, I congratulate you upon the triumph of your policy in Virginia. The gratitude of the people for your liberality is greatly enlivened by the overwhelming majority by which that policy prevails.

R. T. DANIEL,
Chairman.

His Excellency U. S. GRANT,
President of the United States.

IN SENATE.
IN SENATE.
IN SENATE.

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